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BLACK & DECKER CORPORATION
701 E. JOPPA ROAD
TOWSON MD 21286

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of :
Stones et al. : DECISION ON PETITION
Application No. 10/889,762 :
Filed: 07/13/2004 :
Attorney Docket No. P-US-GD-1092 :

This is a decision on the "REQUEST TO CORRECT OF INVENTORSHIP," filed on December 17, 2010, which is being treated as (1) a petition under 37 CFR 1.48(c) to amend the inventive entity by the addition of David Jarman as named inventor; (3) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(c)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

On July 13, 2004, the application was filed. On October 4, 2004, a declaration was filed naming Kevin Stones and Devid Barker as joint inventors.

On December 17, 2010, the subject petitions under 37 CFR 1.47(a) and 1.48(a), and 1.183 were filed. Petitioners seek to add David Jarman (Jarman) as a joint inventor pursuant to 37 CFR 1.48(a).

Petitioners further state that Jarman has refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) as well as the declaration required by 37 CFR 1.63 and 1.67. A

declaration signed by joint inventors Stones and Barker, naming Jarman as a joint inventor, has also been filed.

37 CFR 1.48(a) states:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition of record does not comply with item (2) and (5).

With respect to item (2), petitioners must provide a statement from each person being added as an inventor (Jarman) that the error in inventorship occurred without deceptive intention on his part.

With respect to item (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter). Petitioners state that the inventors have assigned their interest in the invention to assignee Black and Decker, but consent of the assignee has yet to be provided.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

As stated above, it is noted that a statement reflecting the language required by 37 CFR 1.48(c)(2) must be sent to Jarman, the person sought to be added as an inventor but is purportedly refusing to sign.

Petitioners must show that the inability to obtain the statement from the inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

Petition Under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

---

[1] MPEP 201.03(B).

In regards to item (1), petitioners have not provided sufficient proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration, as well as, in this case, the statement of lack of deceptive intent pursuant to 37 CFR 1.48(a)) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Lastly, it is noted that the fee for a petition under 37 CFR 1.47 is $200, pursuant to § 1.17(g). The fee for a request under 37 CFR 1.48(a) is $130.00, pursuant to § 1.17(i), and the fee for a petition under 37 CFR 1.183 is $400.00 pursuant to § 1.17(f). No authorization to charge these fees was provided in the papers filed on December 17, 2010. However, the reply filed on March 5, 2010, signed by registered patent practitioner John Yun, the same practitioner who signed the subject petition, contains an authorization to charge fees under § 1.17 to counsel's deposit account. Accordingly, the required fees of $730.00 will be charged to counsel's deposit account.

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

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[2] MPEP 409.03(d).

Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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NOV 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Stones et al.	:	DECISION ON PETITION
Application No. 10/889,762	:	
Filed: 07/13/2004	:	
Attorney Docket No. P-US-GD-1092	:	

This is a decision on the "SUPPLEMENT TO REQUEST FOR RECONSIDERATION ON PETITION TO CORRECT INVENTORSHIP," filed on October 28, 2011, which is being treated as (1) a petition under 37 CFR 1.48(c) to amend the inventive entity by the addition of David Jarman as named inventor; (3) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(c)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision.

On July 13, 2004, the application was filed. On October 4, 2004, a declaration was filed naming Kevin Stones and David Barker as joint inventors.

On December 17, 2010, the initial petitions under 37 CFR 1.47(a) and 1.48(a), and 1.183 were filed. Petitioners sought to add David Jarman (Jarman) as a joint inventor pursuant to 37 CFR 1.48(a). Petitioners further stated that Jarman has refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) as well as the declaration required by 37 CFR 1.63 and 1.67. A declaration signed by joint inventors Stones and Barker, naming Jarman as a joint inventor, was also been filed.

On September 29, 2011, the petitions were dismissed for want of a statement of lack of deceptive intention on behalf each person being added as an inventor, as well as the written consent of the assignee. Further, petitioners had not shown, under 37 CFR 1.47(a), sufficient proof that the application was sent or given to the non-signing inventor.

On October 28, 2011, the subject renewed petition was filed, whereby petitioners again assert that Jarman has refused to sign the statement of lack of deceptive intent and the declaration pursuant to 37 CFR 1.63. Petitioners have included an affidavit of Marcus Cavalier, attorney for Black & Decker Inc. in the United Kingdom. In his affidavit, attorney Cavalier states that he sent a copy of the application, Declaration, and statement of lack of deceptive intent to the non-signing inventor by letter dated January 25, 2007, but that the inventor refused to sign and return the declaration and statement of lack of deceptive intent.

37 CFR 1.48(a) states:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition of record does not comply with item (5).

With respect to item (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter). Petitioners state that the inventors have assigned their interest in the invention to assignee Black and Decker, but consent of the assignee has yet to be provided.

Further, a review of the petition papers reveals that an identical petition was filed in, *inter alia*, Application Nos. 12/191,466, and 10/889,765. In those applications, petitioners filedd a copy of a letter, dated March 29, 2007, sent to the non-signing inventor, along with a declaration and statement of lack of deceptive intent. Petitioners state that the non-signing inventor returned the statement of lack of intent unsigned, but wrote "Falsified Statement" on the top of the document. No such documentation has been filed in the subject petition, however.

As such evidence is indicative of a refusal to sign, petitioners must explain whether the non-signing inventor also returned the statement of lack of deceptive intent unsigned and similarly annotated in the subject application. If the non-signing inventor did so, a copy of the statement of lack of deceptive intent which was returned as unsigned and annotated by the non-signing inventor must be supplied in the subject application. If the inventor did not return the statement of lack of deceptive intent for the subject application, petitioners may so state in any renewed petition. Furthermore, petitioners should provide a copy of the March 29, 2007 letter to Jarman with any renewed petition.

It is also noted that the papers filed in the related applications included a Statement Under 37 CFR 3.73(b) and as well as an agreement, signed by non-signing inventor Jarman, to assign the invention to Rule 47 applicant Black & Decker.

In accordance with 37 CFR 1.4(b), since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

As such, the petition is dismissed without prejudice to reconsideration pending submission of the documents identified above.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

As stated above, it is noted that a statement reflecting the language required by 37 CFR 1.48(c)(2) must be sent to Jarman, the person sought to be added as an inventor but is purportedly refusing to sign.

Petitioners must show that the inability to obtain the statement from the inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

Petition Under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

---

[1] MPEP 201.03(B).

In regards to item (1), petitioners have not provided sufficient proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration, as well as, in this case, the statement of lack of deceptive intent pursuant to 37 CFR 1.48(a)) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In this regard, the petition is dismissed pending submission of the documentation referenced *supra* in regard to the petition under 37 CFR 1.48(a).

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

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

By 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.

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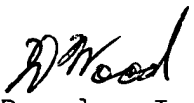
[2] MPEP 409.03(d).

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

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BLACK & DECKER CORPORATION
701 E. JOPPA ROAD
TOWSON MD 21286

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NOV 21 2011

OFFICE OF PETITIONS

In re Application of :
Stones et al. : DECISION ON PETITION
Application No. 10/889,762 :
Filed: 07/13/2004 :
Attorney Docket No. P-US-GD-1092 :

This is a decision on the "SECOND REQUEST FOR RECONSIDERATION ON PETITION TO CORRECT INVENTORSHIP," filed on November 11, 2011, which is being treated as (a) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of David Jarman as a named inventor; (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (c) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is **GRANTED**.

On July 13, 2004, the application was filed. On October 22, 2004, a declaration was filed naming Kevin Stones and David Barker as joint inventors.

On December 17, 2010, the initial petitions under 37 CFR 1.47(a) and 1.48(a), and 1.183 were filed. Petitioners sought to add David Jarman (Jarman) as a joint inventor pursuant to 37 CFR 1.48(a). Petitioners further stated that Jarman refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) as well as the declaration required by 37 CFR 1.63 and 1.67. A declaration signed by joint inventors Stones and Barker, naming Jarman as a joint inventor, was also filed.

On September 29, 2011, the petitions were dismissed for want of a statement of lack of deceptive intention on behalf of each person being added as an inventor, as well as the written consent of the

assignee. Further, petitioners had not shown, under 37 CFR 1.47(a), sufficient proof that the application was sent or given to the non-signing inventor.

On October 28, 2011, a renewed petition was filed, accompanied by an affidavit by Marcus Cavalier, the Black and Decker attorney who sent the application papers and the statement of lack of deceptive intent to the non-signing inventor, as well a copy of the cover letter transmitting the application papers, and statement of lack of deceptive intent, to the non-signing inventor.

On November 3, 2011, the petition was again dismissed for want of consent of the assignee and additional documentation that the non-signing inventor had refused to sign the declaration and the statement of lack of deceptive intent.

On November 11, 2011, the subject renewed petition was filed, accompanied by a statement under 37 CFR 3.73(b) signed by petitioners' registered patent practitioner, John Yun, as well as a copy of the assignment agreement, signed by the non-signing inventor, by which the inventor agrees to assign the invention which is the subject of the instant application for patent to Black and Decker.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

37 CFR 1.48(a) states:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

In view of the efforts recounted in the petition to obtain the signature of David Jarman, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent.

As such, the petition under 37 CFR 1.183 to waive 1.48 is granted with respect to the addition of David Jarman as a named inventor.

A corrected Filing Receipt reflecting the addition of David Jarman, of Lancashire, United Kingdom, as a named inventor, is enclosed with this decision.

Petition Under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

As indicated above, petitioners have provided a statement by the person who sent the application and declaration to the non-signing inventor, as well as a copy of the cover letter transmitting the application and declaration to him. Petitioners

have further shown that the non-signing inventor returned the declaration and the statement of lack of deceptive intent without signing them, and instead wrote "Falsified Statement" at the top of the statement of lack of deceptive intent. As such, the showing of record is that the non-signing inventor refused to sign the declaration, as well as the statement of lack of deceptive intent, after having been sent a copy of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is referred to Technology Center 3724 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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DAVID JARMAN
18 MOORGATE GREEN
HAWORTH
ACCRINGTON
LANCASHIRE BB5 3SJ
UNITED KINGDOM

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Application of
Stones et al.
Application No. 10/889,762
Filed: 07/13/2004
For: VEGETATION PRUNING DEVICE

Dear Mr. Jarman:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join 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 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

BLACK & DECKER CORPORATION
701 E. JOPPA RD
TOWSON MD 21286

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
10/889,762	07/13/2004	3724	1332	P-US-GD-1092	44	1

CONFIRMATION NO. 7162

Black & Decker Corporation
701 E. Joppa Road
Towson, MD 21286

CORRECTED FILING RECEIPT

Date Mailed: 11/21/2011

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

Applicant(s)

Kevin Stones, Bishop Auckland, UNITED KINGDOM;
David Barker, Prudhoe, UNITED KINGDOM;
David Jarman, Lancashire, UNITED KINGDOM;

Power of Attorney:

Edward Murphy--20625
John Del Ponti--24258
Charles Yocum--30121
Bruce Shapiro--33120
Richard Veltman--36957
Adan Ayala--38373
Michael Leary--41144
Paul Ratcliffe--45290

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
UNITED KINGDOM GB 0316447.2 07/14/2003

If Required, Foreign Filing License Granted: 08/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/889,762**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Vegetation pruning device

Preliminary Class

030

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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BLACK & DECKER CORPORATION
701 E. JOPPA ROAD
TOWSON MD 21286

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Stones et al.	:	
Application No. 10/889,764	:	LETTER DISMISSING PETITION
Filed: 07/13/2004	:	
Attorney Docket No. P-US-GD-1097	:	

This is a decision on the "REQUEST TO CORRECT INVENTORSHIP," filed on December 17, 2010, which is being treated as (1) a petition under 37 CFR 1.48(c) to amend the inventive entity by the addition of David Jarman as named inventor; (3) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(c)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is **DISMISSED** for the reasons stated.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision.

On July 13, 2004, the application was filed.

On October 19, 2004, a declaration was filed naming Kevin Stones and David Barker as joint inventors.

On December 17, 2010, the initial petition papers under 37 CFR 1.47(a) and 1.48(a), and 1.183 were filed. Petitioners sought to add David Jarman (Jarman) as a joint inventor pursuant to 37 CFR 1.48(a). Petitioners further stated that Jarman has refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) as well as the declaration required by 37 CFR 1.63 and 1.67. A declaration signed by joint inventors Stones and Barker, naming Jarman as a joint inventor, was also been filed.

On October 28, 2011, an additional paper entitled "SUPPLEMENT TO REQUEST FOR RECONSIDERATION ON PETITION TO CORRECT INVENTORSHIP" was filed. Petitioners have included an affidavit of Marcus Cavalier, attorney for Black & Decker Inc. in the United Kingdom. In his affidavit, attorney Cavalier states that he sent a copy of the application, Declaration, and statement of lack of deceptive intent to the non-signing inventor by letter dated January 25, 2007, but that the inventor refused to sign and return the declaration and statement of lack of deceptive intent.

REQUIREMENT FOR PAYMENT OF FEES

Petitioner has not paid the required fees for the subject request under 37 CFR 1.48(a) and the petitions under 37 CFR 1.47(a) and 1.183. Additionally, no deposit account authorization has been provided to charge the required fees. 37 CFR 1.22(a) states, in pertinent part, that Patent fees and charges payable to the United States Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable.

REQUEST UNDER 37 CFR 1.48(a)

37 CFR 1.48(a) states:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition of record does not comply with items (4) and (5).

With regard to item (4), the processing fee set forth in § 1.17(i) has not been filed. The processing fee is currently $130.00

With respect to item (5), if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter). Petitioners state that the inventors have assigned their interest in the invention to assignee Black and Decker, but consent of the assignee has yet to be provided.

Further, a review of the petition papers reveals that an identical petition was filed in, *inter alia*, Application Nos. 12/191,466, 10/889,762, and 10/889,765. In those applications, petitioners filed a copy of a letter, dated March 29, 2007, sent to the non-signing inventor, along with a declaration and statement of lack of deceptive intent. Petitioners state that the non-signing inventor returned the statement of lack of intent unsigned, but wrote "Falsified Statement" on the top of the document. No such documentation has been filed in the subject petition, however.

As such evidence is indicative of a refusal to sign, petitioners must explain whether the non-signing inventor also returned the statement of lack of deceptive intent unsigned and similarly annotated in the subject application. If the non-signing inventor did so, a copy of the statement of lack of deceptive intent which was returned as unsigned and annotated by the non-signing inventor must be supplied in the subject application. If the inventor did not return the statement of lack of deceptive intent for the subject application, petitioners may so state in any renewed petition. Furthermore, petitioners should provide a copy of the March 29, 2007 letter to Jarman with any renewed petition.

It is also noted that the papers filed in the related applications included a Statement Under 37 CFR 3.73(b) and as well as an agreement, signed by non-signing inventor Jarman, to assign the invention to Rule 47 applicant Black & Decker.

In accordance with 37 CFR 1.4(b), since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

As such, the petition is dismissed without prejudice to reconsideration pending submission of the documents identified above.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1] Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Petitioner has not supplied the fee set forth at § 1.17(f) which is currently $400.00. No fee payment has been received and no authorization to charge a deposit account has been provided. The fee must be supplied with a renewed petition.

Furthermore, as stated above, it is noted that a statement reflecting the language required by 37 CFR 1.48(c)(2) must be sent to Jarman, the person sought to be added as an inventor but is purportedly refusing to sign.

Petitioners must show that the inability to obtain the statement from the inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

Petition Under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the

---

[1] MPEP 201.03(B).

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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (3).

In regards to item (1), petitioners have not provided sufficient proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration, as well as, in this case, the statement of lack of deceptive intent pursuant to 37 CFR 1.48(a)) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In this regard, the petition is dismissed pending submission of the documentation referenced *supra* in regard to the petition under 37 CFR 1.48(a).

In regard to item (3), the required fee pursuant to 37 CFR § 1.17(g) of $200.00 must be filed with any renewed petition.

---

[2] MPEP 409.03(d).

A total amount of $730.00 ($400.00 + $200.00 + $130.00) is due with any renewed petition.

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

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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701 E. JOPPA ROAD
TOWSON MD 21286

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AUG 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Stones et al.	:	DECISION ON PETITION
Application No. 10/889,765	:	
Filed: 07/13/2004	:	
Attorney Docket No. P-US-GD-1087	:	

This is a decision on the "REQUEST TO CORRECT OF INVENTORSHIP" and "PETITION UNDER 37 CFR § 1.47," both filed on December 17, 2010, which are being treated as (a) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of David Jarman as named inventor; (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (c) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

On July 13, 2004, the application was filed. On October 22, 2004, a declaration was filed naming Kevin Stones and David Barker as joint inventors.

On December 17, 2010, the subject petitions under 37 CFR 1.47(a) and 1.48(a), and 1.183 were filed. Petitioners seek to add David Jarman (Jarman) as a joint inventor pursuant to 37 CFR 1.48(a).

Petitioners further state that Jarman has refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) as well as the declaration required by 37 CFR 1.63 and 1.67. A

declaration signed by joint inventors Stones and Barker, naming Jarman as a joint inventor, has also been filed.

37 CFR 1.48(a) states:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition of record does not comply with item (2) and (5).

With respect to item (2), petitioners must provide a statement from the person being added as an inventor (Jarman) that the error in inventorship occurred without deceptive intention on his part.

With respect to item (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter). Petitioners state that the inventors have assigned their interest in the invention to assignee Black and Decker, but consent of the assignee has yet to be provided.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

As stated above, it is noted that a statement reflecting the language required by 37 CFR 1.48(c)(2) must be sent to Jarman, the person sought to be added as an inventor but is purportedly refusing to sign.

Petitioners must show that the inability to obtain the statement from the inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

Petition Under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

---

[1] MPEP 201.03(B).

In regards to item (1), petitioners have not provided sufficient proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration, as well as, in this case, the statement of lack of deceptive intent pursuant to 37 CFR 1.48(a)) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Lastly, it is noted that the fee for a petition under 37 CFR 1.47 is $200, pursuant to § 1.17(g). The fee for a request under 37 CFR 1.48(a) is $130.00, pursuant to § 1.17(i), and the fee for a petition under 37 CFR 1.183 is $400.00 pursuant to § 1.17(f). No authorization to charge these fees was provided in the papers filed on December 17, 2010. However, the reply filed on November 29, 2010, signed by registered patent practitioner John Yun, the same practitioner who signed the subject petition, contains an authorization to charge fees under § 1.17 to counsel's deposit account. The paper filed on March 5, 2010 will be construed as an authorization to charge the fees associated with the subject petitions. Accordingly, the required fees of $730.00 will be charged to counsel's deposit account.

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

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[2] MPEP 409.03(d).

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TOWSON MD 21286

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OFFICE OF PETITIONS

In re Application of :
Stones et al. : DECISION ON PETITION
Application No. 10/889,765 :
Filed: 07/13/2004 :
Attorney Docket No. P-US-GD-1087 :

This is a decision on the "REQUEST FOR RECONSIDERATION ON PETITION TO CORRECT INVENTORSHIP," filed on August 19, 2011, which are being treated as (a) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of David Jarman as a named inventor; (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (c) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is **GRANTED**.

On July 13, 2004, the application was filed. On October 22, 2004, a declaration was filed naming Kevin Stones and David Barker as joint inventors.

On December 17, 2010, the initial petitions under 37 CFR 1.47(a) and 1.48(a), and 1.183 were filed. Petitioners sought to add David Jarman (Jarman) as a joint inventor pursuant to 37 CFR 1.48(a).

Petitioners further stated that Jarman has refused to sign the statement of lack of deceptive intent required by 37 CFR 1.48(a) as well as the declaration required by 37 CFR 1.63 and 1.67. A declaration signed by joint inventors Stones and Barker, naming Jarman as a joint inventor, was also filed. On August 3, 2011, the petitions were dismissed for lack of proof that a copy of the application and the statement of lack of deceptive intent were

sent to the non-signing inventor and documentation consent of the assignee.

On August 19, 2011, the subject renewed petition was filed, accompanied by a statement under 37 CFR 3.73(b) signed by petitioners' registered patent practitioner, John Yun, as well as a copy of the assignment agreement, signed by the non-signing inventor, by which the inventor agrees to assign the invention which is the subject of the instant application for patent to Black and Decker.

On October 28, 2011, petitioners further provided an affidavit by Marcus Cavalier, the Black and Decker attorney who sent the application papers and the statement of lack of deceptive intent to the non-signing inventor, as well a copy of the cover letter transmitting the application papers, and statement of lack of deceptive intent, to the non-signing inventor.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

37 CFR 1.48(a) states:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and

> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

In view of the efforts recounted in the petition to obtain the signature of David Jarman, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent.

As such, the petition under 37 CFR 1.183 to waive 1.48 is granted with respect to the addition of David Jarman as a named inventor.

A corrected Filing Receipt reflecting the addition of David Jarman, of Lancashire, United Kingdom, as a named inventor, is enclosed with this decision.

Petition Under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

As indicated above, petitioners have provided a statement by the person who sent the application and declaration to the non-signing inventor, as well as a copy of the cover letter transmitting the application and declaration to him. Petitioners have further shown that the non-signing inventor returned the declaration and the statement of lack of deceptive intent without signing them, and instead wrote "Falsified Statement" at the top of the statement of lack of deceptive intent. As such, the showing of record is that the non-signing inventor refused to sign the declaration, as well as the statement of lack of

deceptive intent, after having been sent a copy of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/889,765	07/13/2004	3724	4510	P-US-GD-1087	51	3

CONFIRMATION NO. 7167

Black & Decker Corporation
701 E. Joppa Road
Towson, MD 21286

CORRECTED FILING RECEIPT

OC000000050737544

Date Mailed: 11/01/2011

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

Applicant(s)

Kevin Stones, Bishop Auckland, UNITED KINGDOM;
David Barker, Prudhoe, UNITED KINGDOM;
David Jarman, Lancashire, UNITED KINGDOM;

Power of Attorney:

Edward Murphy--20625
John Del Ponti--24258
Charles Yocum--30121
Bruce Shapiro--33120
Richard Veltman--36957
Adan Ayala--38373
Michael Leary--41144
Paul Ratcliffe--45290

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
UNITED KINGDOM GB 0316447.2 07/14/2003

If Required, Foreign Filing License Granted: 09/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/889,765**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

VEGETATION PRUNING DEVICE

Preliminary Class

030

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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DIW Nov-11

David Jarman
18 Moorgate Green
Haworth
Accrington
Lancashire BB5 3SJ
UNITED KINGDOM

MAILED

NOV 01 2011

OFFICE OF PETITIONS

In re Application of
Stones et al.
Application No. 10/889,765
Filed: 07/13/2004
For: VEGETATION PRUNING DEVICE

Dear Mr. Jarman:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join 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 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

BLACK AND DECKER CORPORATION
701 E. JOPPA ROAD
TOWSON MD 21286

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110719

DATE : July 19, 2011

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7548341

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:

/MARK ZIMMERMAN/
Supervisory Patent Examiner.Art Unit 2625

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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.
10/889,858	07/13/2004	Gordon Bremer	061607-1151	7197

24504 7590 09/15/2010

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

EXAMINER	
JAMAL, ALEXANDER	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
09/15/2010	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100910

DATE : September 10, 2010

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction on Patent No.: 10/889858

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:

/CURTIS KUNTZ/
Supervisory Patent Examiner.Art Unit 2614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/13/2011 **Paper No.:** —

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/889975 Patent No.: 7889759B2

CofC mailroom date: 4/5/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

/Ricky Ngo/
SPE **Art Unit**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/889,983	07/12/2004	Mark Dean Smith	50847.00152	6599

23619 7590 08/20/2010
SQUIRE SANDERS & DEMPSEY LLP
1 East Washington Street
SUITE 2700
PHOENIX, AZ 85004

EXAMINER	
SRIRAMAN, NIKHIL	
ART UNIT	**PAPER NUMBER**
3664	
MAIL DATE	**DELIVERY MODE**
08/20/2010	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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AUG 20 2010

Squire, Sanders & Dempsey L.L.P.
Two Renaissance Square
40 North Central Avenue, Suite 2700
Phoenix, Arizona 85004-4498

In re Application of :
Smith, Marrk D. :
Application No.: 10/889,983 : *SUA SPONTE*
Filed: July 12, 2004 : RECISSION OF NOTICE
For: System and Method for Determining Bearing : OF ABANDONMENT

A review of the application reveals that a Notice of Appeal was filed on January 08, 2010. However, a Notice of Abandonment was inadvertently issued for the case on June 21, 2010.

The abandonment of the application was clearly premature and is hereby rescinded. The application will revert to pending status and waiting for Applicant's subsequent action.

Inquires related to this decision may be directed to Khoi Tran at (571) 272-6919

Katherine Matecki, Director
Technology Center 3600
(571) 272-3600

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SHERIDAN NEIMARK
BROWDY AND NEIMARK
STE 300
624 NINTH ST NW
WASHINGTON DC 20001

MAILED

JUL 08 2011

OFFICE OF PETITIONS

In re Application of :
Yehuda Binder :
Application No. 10/890,199 : ON PETITION
Filed: July 14, 2004 :
Attorney Docket No: BINDER-8A :

This is a decision on the petition filed December 27, 2010 under 37 CFR 1.182, for withdrawal of the terminal disclaimer filed July 10, 2009.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed July 10, 2009 does not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

The petition fee in the amount of $400.00 has been charged to the credit card provided.

This matter is being referred to Technology Center 2463 to correct the records related to the terminal disclaimer filed July 10, 2009 consistent with this decision.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

MAILED
JUL 14 2011
OFFICE OF PETITIONS

In re Application of :
Xiao ZHANG et al :
Application No. 10/890,279 : ON PETITION
Filed: July 14, 2004 :
Attorney Docket No. 23856-011001-2 U :

This is a decision on the petition, filed on January 25, 2011, Petition Under 37 CFR § 1.183 requesting waiver of the requirement of 37 CFR §§ 1.48(a)(3), 1.63 and 1.64(a). The processing fees of $400.00 under 37 CFR § 1.17(f) and $130.00 under 37 CFR § 1.17(i) have been charged to Deposit Account 06-1050.

The petition under 37 CFR § 1.183 is **GRANTED**.

The petition under 37 CFR § 1.48(a) is **GRANTED**.

Petitioner indicates that during a review of the inventorship of the abovementioned application, that it was discovered that without any deceptive intent on behalf of any party, the listed inventorship was incorrect. Petitioner indicates that Weiyang Lin was also an inventor of the subject matter claimed and submits the consent of the assignee to the addition of Weiyang Lin. Petitioner also indicates that it was discovered that without any deceptive intent on behalf of any party, Yuhong Kang was incorrectly listed as an inventor. All signatures for a subsequent declaration have been obtained, except for Yuhong Kang. Petitioner identifies the last known address of Yuhong Kang, whose signature is requires on the declaration, and submits statements of facts regarding the unsuccessful attempts to reach Yuhong Kang. Petitioner now submits a petition under 37 CFR 1.183 requesting a waiver of the requirements of 37 CFR §§ 1.48(a)(3), 1.63 and 1.64.

37 CFR § 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. Here, presentation of a request to add an inventor requires a substitute specification. The declarations of Xiao Zhang, Xiaoyan Huang, Weiyang Lin, Susan

Lu and Lesley Rapaport along with the submitted exhibits are sufficient to establish due diligence for granting of the petition. The rule will be waived to comply with the requirement, since there is no other way to present the required substitute specification. The request under 37 CFR § 1.183 to waive the requirements of 37 CFR §§ 1.48(a)(3), 1.63 and 1.64 is granted. The substitute declaration filed January 25, 2011 is accepted and will be entered. The inventorship of this application has been amended by the deletion of **YUHONG KANG** and the addition of **WEIYANG LIN**.

The application file is being forwarded to Technology Center 1600, Art Unit 1615 for further action as appropriate.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: 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
10/890,279	07/14/2004	1615	1735	23856-011001 / 100108-2 U	14	1

CONFIRMATION NO. 8459

CORRECTED FILING RECEIPT

26161
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 07/14/2011

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)

Xiao Zhang, Nanning, CHINA;
Xiaoyan Huang, Nanning, CHINA;
Weiyang Lin, Kwai Chung, HONG KONG;

Power of Attorney: The patent practitioners associated with Customer Number 26161

Domestic Priority data as claimed by applicant

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.)
CHINA 03146020.8 07/14/2003

If Required, Foreign Filing License Granted: 08/31/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/890,279**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

STABLE PHARMACEUTICAL COMPOSITION OF FREEZE-DRIED TETRODOTOXIN POWDER

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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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 :
David C. LAWSON, et *al.* :
Application No. 10/890,430 :
Filed: July 10, 2004 :
Attorney Docket No. **20030211** :

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

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

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

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

Attorney Docket Number: CISCO-7758	
Application Number: 10/890,581	Filing Date (or 371(b) or (f) Date): July 13, 2004
Patent Number: 7,664,057	Issue Date: February 16, 2010
First Named Inventor: Fang Wu	
Title: Audio-to-Video Synchronization System & Method for Packet-Based Network Video Confere	

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

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

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

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

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

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

☐ *Total of _____ forms are submitted.

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

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

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

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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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 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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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

Mail Date: 08/13/2010

Applicant	: Fang Wu	: DECISION ON REQUEST FOR
Patent Number	: 7664057	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/890,581	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1094** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of
Howard W. Lutnick et al.
Application No. 10/890,602
Filed: July 13, 2004
Attorney Docket No. 03-1089

ON PETITION

This is a decision on the petition under 37 CFR 1.181(a)(1) and (3) (entitled "PETITION REQUESTING BONA FIDE DECISION ON PETITION") filed February 17, 2010, requesting that the Director exercise his supervisory authority to review the decision of the Director, Technology Center 3600 (TC Director), dated December 18, 2009, for compliance with 5 U.S.C. § 555(b) and (e) and 37 CFR 1.181(b). The petition also requests that instructions be given to TC Directors to cease reframing issues on petition, and that a bona fide decision be given to the petition filed October 31, 2009.

The petition under 37 CFR 1.181(a)(1) and (3) filed February 17, 2010, is **DENIED**.

BACKGROUND

A requirement for restriction was mailed August 5, 2008.

A response to the restriction requirement was filed on February 5, 2009.

A Notice of Non-Compliant Amendment was mailed May 26, 2009. This Notice indicated that applicant had failed to elect an invention.

A Notice of Abandonment was mailed June 23, 2009.

A petition to the TC Director was filed October 31, 2009.

A petition decision by the TC Director, dismissing the October 31, 2009 petition was mailed December 18, 2009. The decision by the TC Director of December 18, 2009, however, determined that the requirement for restriction was improper, withdrew the requirement for restriction and the holding of abandonment, and returned the application to the examiner to reopen prosecution and consider claims 1 through 102.

A non-final Office action was mailed on February 2, 2010. The Office action of February 2, 2010 does not contain any requirement for restriction.

The instant petition to the Director was filed February 17, 2010.

STATUTE AND REGULATIONS

35 U.S.C. § 121 states that:

> If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application. If a divisional application is directed solely to subject matter described and claimed in the original application as filed, the Director may dispense with signing and execution by the inventor. The validity of a patent shall not be questioned for failure of the Director to require the application to be restricted to one invention.

37 CFR 1.142 states in part that:

> (a) If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted, this official action being called a requirement for restriction (also known as a requirement for division). Such requirement will normally be made before any action on the merits; however, it may be made at any time before final action.

37 CFR 1.143 states that:

> If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 CFR 1.144 states that:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 CFR 1.181 states in part:

> (a) Petition may be taken to the Director:
>
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
>
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
>
> (3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

5 U.S.C. § 555 states in part that:

> (b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall

proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

* * * * *

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding.

OPINION

Petitioners filed a petition under 37 CFR 1.181(a)(1) and (3) on February 17, 2010, requesting a review of the TC Director's decision mailed December 18, 2009, for compliance with 5 U.S.C. § 555(b) and (e) and 37 CFR 1.181(b). Petitioners also request that instructions be given to TC Directors to cease reframing issues on petition, and that a bona fide decision be given to the petition filed October 31, 2009, which requested that: (1) the requirement for restriction mailed August 5, 2008, the notice of noncompliant amendment mailed May 26, 2009, and the notice of abandonment mailed June 23, 2009 be vacated; (2) the Memorandum entitled "Changes to Restriction form paragraphs" signed by John Love, Deputy Commissioner for Patent Examination Policy on April 25, 2007 (hereafter "the April 25, 2007 memorandum") be vacated; and (3) instructions issued by the President of the United States be implemented.

On August 5, 2008, the examiner issued a restriction requirement under 37 CFR 1.142. Applicant filed a reply to the restriction requirement on February 5, 2009, and subsequently a petition under 37 CFR 1.181 on October 31, 2009.

37 CFR 1.143 provides that "[i]f applicant disagrees with a requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefore" and applicant must provisionally elect one of the inventions for prosecution in the request for reconsideration. 37 CFR 1.144 provides that "[a]fter a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement." 37 CFR 1.181 provides that a petition may be taken "[f]rom any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals."

Petitioners' complaint that the TC Director treated the petition filed on October 31, 2009, as a petition to seek review of the examiner's restriction requirement merely exalts form over substance. 37 CFR 1.181 provides generally for petitions from actions or requirements of an examiner in the *ex parte* prosecution of an application, where 37 CFR 1.144 provides specifically for review of a final restriction requirement by an examiner. 37 CFR 1.144 is specifically applicable to the instant application in which the examiner made a restriction requirement under 37 CFR 1.142, and 37 CFR 1.143 permits applicant to request reconsideration and withdrawal of

a restriction requirement. The TC Director's decision indicated that the TC Director reviewed applicant's arguments and the examiner's restriction requirement, and determined to withdraw the examiner's restriction requirement, which is the result that the TC Director would reach whether the petition is considered as one filed under 37 CFR 1.144 or one filed under 37 CFR 1.181. Thus, the issue of whether the examiner's restriction requirement is proper was decided and resolved in the TC Director's decision. The notice of noncompliant amendment mailed on May 26, 2009, and notice of abandonment mailed on June 23, 2009, were subsequently withdrawn. An Office action on the merits was mailed on February 2, 2010. The petition sought review of the examiner's restriction requirement and petitioners received the full measure of relief that any applicant petitioning from a restriction requirement is entitled to under 37 CFR 1.143, 1.144, and 1.181: withdrawal or modification of the restriction requirement. See 37 CFR 1.143.

Petitioners seem to be unsatisfied with the TC Director's decision because the decision did not vacate the April 25, 2007 memorandum, and the examiner's restriction requirement was withdrawn rather than vacated. 37 CFR 1.181 provides for review of actions or requirements of an examiner in the *ex parte* prosecution of an application, and is not a forum for general complaints about USPTO practices or procedures. The April 25, 2007 memorandum is not an action or requirement made in the instant application. The withdrawal of the restriction requirement (rather than vacatur) is likewise not an action or requirement made in the instant application.[1] In any event, petitioners' request that the examiner's restriction requirement be vacated is not granted because 37 CFR 1.143 only provides that applicant may request for reconsideration and withdrawal or modification of a restriction requirement. Accordingly, the TC Director's decision addressed all the relevant issues related to actions taken or requirements made in the instant application that were presented in the petition under 37 CFR 1.181 filed on October 31, 2009, and is thus in compliance with 5 U.S.C. § 555(b) and (e).

Petitioners' also raise issues under the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq. (Paperwork Reduction Act). The collection of information pertaining to the filing of applications has been reviewed and approved by OMB under control number 0651-0032 and the collection of information pertaining to replies to Office action up to allowance of an application has been reviewed and approved by OMB under control number 0651-0031. The collection of information at issue (the election by an applicant in reply to a requirement for restriction by the examiner) has been reviewed and approved by OMB under control number 0651-0031. The public protection provision of the Paperwork Reduction Act provides in part that: "no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this subchapter if- (1) the collection of information does not display a valid control number assigned by the Director in accordance with this subchapter; or (2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number." *See* 44 U.S.C. § 3512(a). Thus, the Paperwork Reduction Act does not create private right of

[1] Any patent term adjustment under 35 U.S.C. § 154(b) will be indicated on the notice of allowance if the Office subsequently allows the instant application after an examination on the merits. See 37 CFR 1.705. Any complaint about the patent term adjustment indicated on any notice of allowance thatissues in the instant application must be presented in compliance with 37 CFR 1.705(b) after the Office issues a notice of allowance in this application.

action, but is only defense to enforcement actions. See Ass'n of Am. Physicians & Surgs. v. United States HHS, 224 F. Supp. 2d 1115, 1128 (S.D.Tex. 2002). The information required by the public protection provision of the Paperwork Reduction Act is provided on the transmittal form the USPTO provides for any reply to an Office action, namely the transmittal form PTO/SB/21. As the requirement for restriction has in any event been withdrawn, petitioners' contentions concerning the Paperwork Reduction Act are inapt as well as amiss.

Finally, a significant portion of the petition addresses whether the USPTO guidance and other informational documents (e.g., MPEP and memoranda to the Patent Examining Corps) complies with Executive order 12866 (Sept. 30, 1993) (Regulatory Planning and Review)[2] and the Office of Management and Budget (OMB) Bulletin on Good Guidance Practice. Section 11 of Executive order 12866 expressly indicates that: "[t]his Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its agencies or instrumentalities, its officers or employees, or any other person." See Executive Order 12866 of September 30, 1993; Regulatory Planning and Review, 58 Fed. Reg. 51735 (Oct. 4, 1993). The Bulletin on Good Guidance Practice is a bulletin issued by OMB in a Federal Register notice entitled Final Bulletin for Agency Good Guidance Practices, published at 72 Fed. Reg. 3432 (Jan. 25, 2007). Similar to Executive order 12866, the Final Bulletin for Agency Good Guidance Practices expressly indicates that: "[t]his Bulletin is intended to improve the internal management of the Executive Branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its agencies, or other entities, its officers or employees, or any other person." See Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. at 3440. Any person may bring issues of alleged non-compliance on the part of the USPTO with Executive order 12866 or the Final Bulletin for Agency Good Guidance Practices to the attention of the Department of Commerce or the Office of Management and Budget; however, petitioners' issues concerning compliance or non-compliance with Executive order 12866 or the Final Bulletin for Agency Good Guidance Practices do not provide a basis for setting aside or otherwise disturbing the TC Director's decision in the above-identified application. See, e.g., Teledyne, Inc. v. United States, 50 Fed. Cl. 155, 190 (Fed. Cl. 2001) (plaintiff cannot rely upon an Executive order that, by its plain terms, precludes judicial review of an agency's compliance with its directive as a basis for challenging agency action).

CONCLUSION

The petition is granted to the extent that the decision of the TC Director of December 18, 2009 has been reviewed; however, the petition is **denied** with respect to making any change to or otherwise disturbing the TC Director's decision of December 18, 2009.

---

[2] Executive order 12866 (Sept. 30, 1993) was amended by Executive order 13258 (Feb. 26, 2002), Executive order 13422 (Jan. 18, 2007), and Executive order 13497 (Jan. 30, 2009). Executive order 13497 revoked Executive orders 13258 and 13422 and directed OMB to promptly rescind any guidelines or policies implementing or enforcing Executive orders 13258 and 13422.

The application is being returned to Technology Center 3600 for consideration of petitioners' reply to the Office action of February 17, 2010.

Robert W. Bahr
Acting Associate Commissioner for
Patent Examination Policy

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NEW YORK NY 10022

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FEB 16 2011

OFFICE OF PETITIONS

In re Application of :
Howard W. Lutnick et al. :
Application No. 10/890,602 : ON PETITION
Filed: July 13, 2004 :
Attorney Docket No. 03-1089 :

This is in response to the PETITION REQUESTING REVIEW OF DECISION BY ACTING ASSOCIATE COMMISSIONER BAHR, filed January 3, 2010.

Petitioner's request for reconsideration has been received. A review of the file indicates that a reply to the Office action mailed February 2, 2010 was not received. Accordingly, the present application is abandoned by operation of law. Any decision on the petition would be an advisory opinion and as such will not be given.

This file is being referred back to TC 3600 for mailing of a Notice of Abandonment.

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

Carl Friedman
Petitioner Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Howard W. Lutnick et al. :
Application No. 10/890,602 : ON PETITION
Filed: July 13, 2004 :
Attorney Docket No. 03-1089 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to the non-final Office action mailed February 2, 2010 which set a shortened statutory period for response of three (3) months. No response was filed and the application went abandoned on May 3, 2010. A Notice of Abandonment was mailed February 18, 2011.

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

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

This application is being referred to Technology Center AU 3695 for appropriate action by the Examiner in the normal course of business on the amendment submitted May 31, 2011.

Carl Friedman
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/890,721	07/13/2004	Scott C. Harris	Spam3/SCH	8307

23844 7590 04/01/2011

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EXAMINER	
BENGZON, GREG C	

ART UNIT	PAPER NUMBER
2444	

NOTIFICATION DATE	DELIVERY MODE
04/01/2011	ELECTRONIC

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

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

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

scott@harrises.com
schuspto@gmail.com

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SCOTT C HARRIS
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In re Application of: Scott C. Harris
Application No. 10/890,721
Filed: July 13, 2004
For: SPAM FILTER

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition, filed March 06, 2011, under 37 CFR § 1.181 to reconsider and reverse the examiner's Final rejection mailed March 02, 2011. The petition states that the Final action is improper because the 35 USC 112, second paragraph rejection was introduced in the Final action for the first time.

The petition is **DISMISSED**.

APPLICABLE PROSECUTION HISTORY

Dec 01, 2010	Decision by Board of Patent Appeals and Interferences; a new ground of rejection was made by the board, rejecting claims 1-4, 7-10, 12-17, and 19 under 35 USC 112, second paragraph. Examiner's rejections of claims 1-4, 7-10, 12-17, and 19 under 35 USC 103(a) were reversed, *pro forma*.
Feb 01, 2011	Amendment filed by Applicants in response to the BPAI new ground of rejection; amending at least all independent claims 1, 10, and 17, all dependent claims were amended by virtue of their dependency, and adding new depending claim 20.
Mar 03, 2011	Final office action mailed, rejecting all pending claims 1-4, 7-10, 12-17, and 19-20 under 35 USC 103(a). The rejection also included a 35 USC 112, second paragraph, maintaining the Board's rejection indicating the amendment did not clarify the indefinite issue raised by the Board.
Mar 06, 2011	The instant petition filed, requesting review of the proprietary of the Final action of Mar 3, 2011.

RULES AND PROCEDURE

37 C.F.R. § 1.181(f) states, in part:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings...

37 C.F.R. § 41.50(b) states, in part:

> (1) Reopen prosecution. Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner. *The **new ground of rejection is binding upon the examiner** unless an amendment or new evidence not previously of record is made which, in the opinion of the examiner, overcomes the new ground of rejection stated in the decision.* Should the examiner reject the claims, appellant may again appeal to the Board pursuant to this subpart. (emphasis added)

MPEP § 706.07(a) states in part that:

> Under present practice, second or *any subsequent action* on the merits ***shall*** be made final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement.

MPEP § 1214.01 states, in part:

> When the Board makes a new rejection under 37 CFR 41.50(b), the appellant, as to each claim so rejected, has the option of:
>
> (A) reopening prosecution before the examiner by submitting an appropriate amendment and /or new evidence (37 CFR 41.50(b)(1)); or
>
> (B) requesting rehearing before the Board (37 CFR 41.50(b)(2)).
>
> ....
>
> The new ground of rejection raised by the Board does not reopen prosecution except as to that subject matter to which the new rejection was applied. ...
> If the rejection under 37 CFR 41.50(b) is not overcome, the applicant can file a second appeal (as discussed below). ...
>
> If the examiner does not consider that the amendment and/or new evidence overcomes the rejection, he or she will again reject the claims. If appropriate, the rejection will be made final.
>
> An applicant in whose application *such a final rejection has been made by the examiner* may mistakenly believe that he or she is entitled to review by the Board of the rejection by virtue of the previous appeal, but under the provisions of 37

CFR 41.50(b)(1), after such a final rejection, *an applicant who desires further review of the matter must file a new appeal to the Board.* Such an appeal from the subsequent rejection by the examiner will be an entirely new appeal involving a different ground and will require a new notice of appeal, appeal brief, and the payment of the appropriate fees.

ANALYSIS AND OPINION

A review of the prosecution history in the instant application reveals that in response to the new ground of rejection by the Board, applicant elected to reopen prosecution before the examiner; all independent claims 1, 10, and 17 were amended and the dependent claims were amended by virtual of their dependency. In response, the examiner rejected all pending claims 1-4, 7-10, 12-17, and 19-20 under 35 USC 103(a) and 35 USC 112, second paragraph. The examiner stated in his action that he did not consider the amendment filed by applicant to overcome the new ground of rejection by the Board, maintained the 35 USC 112, second paragraph rejection, and made the action Final. Thus, the 35 USC 112, second paragraph was maintained from the Board's new ground of rejection in the decision mailed Dec 01, 2010, rather than introduced for the first time in the Final rejection mailed Mar 02, 2011 as alleged by applicant.

For the reasons stated above, the Final rejection is deemed appropriate. The petition is **DISMISSED.**

Further, pursuant to 37 C.F.R. § 1.181(f), the shortened statutory period for reply is continued to run three months from the mailing date of the Final Office Action.

Petition is reminded that reply under 37 CFR § 1.116 is available. However, under the provisions of 37 CFR 41.50(b)(1), desires to further review of the matter must file a new appeal to the Board. Such an appeal will be an entirely new appeal involving a different ground and *will require a new notice of appeal, appeal brief, and the payment of the appropriate fees.*

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 242-4147.

/ N. Le/

N. Le, Director
Technology Center 2400
Network, Multiplexing, Cable and Security

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JAN 18 2012

OFFICE OF PETITIONS

In re Patent No. 7,263,775 :
Issued: September 4, 2007 :
Application No. 10/890,868 : ON PETITION
Filed: July 15, 2004 :
Attorney Docket No. D80-009 :

This is a decision on the petition under 37 CFR 1.378(c), filed December 12, 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 Commissioner.

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

With regards to items (3), petitioner has failed to submit the required $1,640.00 surcharge fee. Therefore, as stated above a $400.00 petition fee is also required for any petition for reconsideration, bringing the total to $2,040.00.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

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

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Reynolds E. Moulton III
158 Summit Street
Brooklyn, NY 11231

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 3, 2012

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/890891 , Patent No.: 8046657

Co f C mailroom date: 1-26-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

[signature] 2624

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100908

DATE : September 08, 2010

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 10890912

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 changes do not introduce new matter nor change the scope or meaning of the claims.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

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.
10/891,053	07/15/2004	Jean Guesnon	612.44031X00	8693

20457 7590 04/02/2012

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER	
SAYRE, JAMES G	
ART UNIT	**PAPER NUMBER**
3674	
MAIL DATE	**DELIVERY MODE**
04/02/2012	PAPER

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

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

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APR - 2 2012

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of JEAN GUESNON :
Application No.: 10/891,053 : **RESPONSE TO PETITION**
Filed: July 15, 2004 : **UNDER 37 CFR 1.181**
For: OFFSHORE DRILLING SYSTEM COMPRISING A HIGH-PRESSURE RISER :

This is in response to the applicant's petition under 37 CFR 1.181 filed on June 24, 2011 to withdraw the finality of the Office action mailed February 24, 2011, and the objection to the drawing set forth in the February 21, 2011 Office action. In addition, applicant requests a corrected advisory action and entry of the applicant's remarks submitted with the after-final amendment filed on May 24, 2011.

The petition is **DISMISSED**.

Applicant argued in the petition that the finality is premature and should be withdrawn because the February 24, 2011 Office action contains a new ground of drawing objection not necessitated by amendment. Applicant also argued that the drawing objection is improper because the objected claimed feature of "the various sections have metallic tubular bodies of different thickness" has been shown in figure 2. In addition, applicant alleges that the advisory action of June 17, 2011 is complete. As such, a corrected and complete advisory action should be issued. Furthermore, applicant contends that the remarks in the after-final amendment dated May 24, 2011 should be entered since there is no provision in the statutes, rules or Manual of Patent Examining Procedure that prohibit the entry of applicant's remarks.

A review of the application reveals that a non-final rejection was mailed on February 19, 2010 following the submission of a request for continued examination (RCE) on January 25, 2010. Applicant submitted an amendment on May 18, 2010. Another non-final Office action was mailed on July 27, 2010. Applicant filed another amendment on October 27, 2010. A final Office action was mailed on February 24, 2011. An after-final amendment was filed on May 24, 2011 followed by an advisory action mailed on June 17, 2011. After the filing of a notice of appeal on June 24, 2011, applicant filed the instant petition on June 24, 2011. Another non-final Office action was mailed on January 20, 2012.

In view of the fact that the finality of the previous Office action has been withdrawn via the mailing of the non-final Office action on January 20, 2012, the issue relating to the finality of the February 24, 2011 has been rendered moot. Similarly, the issues relating to the advisory action and entry of applicant's remarks have also been rendered moot.

Regarding the objections to the drawings, 37 C.F.R. § 1.83 states:

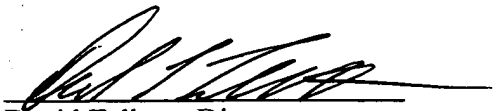
1.83 Content of drawing.

(a)*The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).*

MPEP § 608.02(d) states that "*Any structural detail that is of sufficient importance to be described should be shown in the drawing.* (Ex parte Good, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911).)"

In paragraph 1 of the final Office action, the examiner objected to the drawings because they failed to show the "various sections have metallic tubular bodies of different thickness". In the petition, applicant asserts that "clearly the drawings, e.g. Figure 2, show the various sections of metallic tubular bodies 12 diagrammatically.. Since Figure 2 is a diagrammatical view and since patent drawings are in any event not necessarily to scale, it is difficult to show the comparative thickness of such structural elements". Applicant's arguments have been considered but not found persuasive. Since the metallic tubular bodies and their thickness are of sufficient importance to be described in the specification, they are deemed essential for a proper understanding of the disclosed invention. As such, the metallic tubular bodies and their thicknesses should be shown in the drawing as required by MPEP § 608.02(d) and 37 CFR 1.83(a). Therefore, applicant's request to withdraw the examiner's objection of the drawings is dismissed.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Thomas A. Beach at 571-272-6988.



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

tab/lm: 02/29/2012
LM

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

MAILED
JAN 06 2012
OFFICE OF PETITIONS

In re Patent No. 7,354,642
Issue Date: April 8, 2008
Application No. 10/891,070
Filed: July 15, 2004
Attorney Docket No. SHIZ3001CIP/EM

DECISION ON REQUEST

This is a decision on the Request filed November 8, 2011.

The request is **DISMISSED**.

The request is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request is signed by Denise E. Boylin. Note 37 CFR 1.33(b) which states:

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

Further, the request submitted on November 8, 2011, reads "... Please take the extra deficiency amount of $150 to show all is in good order with this case." However, the Office is unclear as to what fee the $150 deficiency payment is to be applied to.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

DENNEMEYER & CO. LTD.
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

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

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,711,526 :
Issue Date: May 4, 2010 :
Application No. 10/891,083 : DECISION ON PETITION
Filed: July 15, 2004 :
Attorney Docket No. 1248-0734PUS1 :

This is a decision on the Request Under 37 C.F.R. §§3.81 and 1.323 To Change Assignee's Name and Request For Certificate Of Correct Pursuant To 37 CFR 1.323, filed June 3, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

Petitioner urges that the present Petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

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

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

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

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,711,526.

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

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FEB 15 2011

OFFICE OF PETITIONS

Los Alamos National Security, LLC
Los Alamos National Laboratory
PPO. Box 1663, LC/IP MS A187
Los Alamos, New Mexico 87545

In re Patent of 7,078,108	:	
Issue Date: 18 July 2006	:	DECISION GRANTING PETITION
Application No. 10/891,323	:	UNDER 37 CFR 1.378(c)
Filed: 14 July 2004	:	
Atty. Docket No.: S-102, 399	:	

This is a decision on the petition under 37 CFR 1.378(c), filed 13 December 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on 19 July 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 mailing date of this decision.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

David Bucci
Petitions Examiner
Office of Petitions

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GREENVILLE SC 29602-1449

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Thomas A. KRAKER	:	
Application No. 10/891,375	:	DECISION ON PETITION
Filed: July 14, 20047	:	
Attorney Docket No. SMD-125-DIV	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 05, 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 December 27, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) month extension of times pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $930.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,860.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-41231.

This application is being referred to Technology Center AU 1747 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of	:	
Wolkoff et al.	:	
Patent Number: 8,082,178	:	DECISION ON
Issue Date: 12/20/2011	:	APPLICATION FOR
Application No. 10/891517	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/15/2004	:	
Attorney Docket Number:	:	
11032-3070	:	

This is a decision on the petition filed on February 21, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred thirty-seven (1237) days. The petition is properly treated under 37 CFR 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred thirty-seven (1237) days is **GRANTED TO THE EXTENT INDICATED**.

Patentee provides that the Office erred in calculating a reduction of fifty-two (52) days in connection with the filing of a reply to an Office action mailed June 19, 2009, on November 10, 2009, three months and fifty-two (52) days after the mail date of the Office action. Patentee asserts that because the due date for the reply, September 19, 2009, fell over a weekend, the three (3) month date for the reply should be calculated from Monday, September 21, 2009, and the period of reduction should be fifty (50) days, and not fifty-two (52) days, as intended by 35 U.S.C. 154(b)(2)(C)(ii). Patentee references 37 CFR 1.704(b).

Patentee also asserts that the Office erred in subtracting from the "B" Delay period time that was not consumed by continued examination. Patentees filed, inter alia, Requests for Continued Examination ("RCE"), on November 10, 2009, January 31, 2011 and June 30, 2011. This Office mailed a Notice of Allowance and Issue Fee Due on August 9, 2011. Patentees request an additional one hundred thirty-four (134) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, December 20, 2011. Patentees aver that with the mailing of the Notice of Allowance on August 9, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 134-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Patentees

aver that 134 days of B Delay should have been included in the period of delay accorded the Director, and that the "B Delay" for issuance of the patent beyond three years from filing is 982 days, instead of 848 days.

Patentee's arguments have been carefully considered. Regarding the reduction of fifty-two (52) days in connection with the filing of a reply to an Office action mailed June 19, 2009, on November 10, 2009, three months and fifty-two (52) days after the mail date of the Office action, Office records confirm that the due date for the reply, September 19, 2009, fell over a weekend, and a reduction of fifty (50) days pursuant to 37 CFR 1.704(b) is appropriate.

Regarding the assertion that that the Office erred in subtracting from the "B" Delay period the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed

term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued

[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the

Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

---

[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

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 16, 2007, and ends on November 9, 2009, the day before the RCE, filed November 10, 2009, was filed, and is 848 days. See, 35 U.S.C. 154(b)(1)(B)(i).

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 Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred three (1103) days** (adjustments of 1516 days less reductions of 413 days).

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,082,178 B2

DATED : **December 20, 2011**

INVENTOR(S) : Wolkoff 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 1101 days.

Delete the phrase "by 1101 days" and insert – by 1103 days--

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United States Patent and Trademark Office
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DEC 28 2010

OFFICE OF PETITIONS

McDonnell Boehnen Hulbert & Berghoff LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Patent No. 7,601,818	:
Wild et al.	: DECISION UPON REMAND AND
Issue Date: October 13, 2009	: RECONSIDERATION OF
Application No. 10/891,658	: PATENT TERM ADJUSTMENT
Filed: July 15, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 02-1240-F	: TO ISSUE CERTIFICATE OF
Title: Human Anti-NGF	: CORRECTION
Antibodies as Selective NGF	:
Pathway Inhibitors	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred and forty (640) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and forty(640) 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 : 7,601,818

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Wild 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 417 days

Delete the phrase "by 417 days" and insert – by 640 days--

Day : Tuesday
Date: 12/21/2010

PALM INTRANET

Time: 10:42:42

PTA Calculations for Application: 10/891658			
Application Filing Date:	07/15/2004	PTO Delay (PTO):	480
Issue Date of Patent:	10/13/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	63
Post-Issue Petitions:	0	Total PTA (days):	640
PTO Delay Adjustment:	223		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
175	12/21/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	223		
167.5	09/23/2009	PTA 36 MONTHS			
167	10/13/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
166	08/17/2009	PETITION ENTERED			
165	08/20/2009	EXPORT TO FINAL DATA CAPTURE			
164	08/19/2009	DISPATCH TO FDC			
163	08/17/2009	ISSUE FEE PAYMENT VERIFIED		2	157
162	08/17/2009	ISSUE FEE PAYMENT RECEIVED			
160	05/29/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
159	05/19/2009	EXPORT TO INITIAL DATA CAPTURE			
157	05/15/2009	MAIL NOTICE OF ALLOWANCE			
156	05/14/2009	ISSUE REVISION COMPLETED			
155	05/14/2009	DOCUMENT VERIFICATION			
154	05/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
153	05/14/2009	EXAMINER'S AMENDMENT COMMUNICATION			
152	05/14/2009	NOTICE OF ALLOWABILITY			
151	04/27/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
150	05/01/2009	DATE FORWARDED TO EXAMINER			
149	04/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
148	05/01/2009	DISPOSAL FOR A RCE / CPA / R129			
147	04/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
141	04/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

140	04/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
139	04/21/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
138	04/10/2009	EXPORT TO INITIAL DATA CAPTURE			
137	02/24/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
136	04/06/2009	MAIL EXAMINER'S AMENDMENT			
135	04/06/2009	MAIL NOTICE OF ALLOWANCE			
135	04/06/2009	MAIL NOTICE OF ALLOWANCE			
134	04/03/2009	ISSUE REVISION COMPLETED			
134	04/03/2009	ISSUE REVISION COMPLETED			
133	04/03/2009	DOCUMENT VERIFICATION			
133	04/03/2009	DOCUMENT VERIFICATION			
132	04/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
132	04/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
131	04/01/2009	EXAMINER'S AMENDMENT COMMUNICATION			
131	04/01/2009	EXAMINER'S AMENDMENT COMMUNICATION			
130	04/01/2009	NOTICE OF ALLOWABILITY			
130	04/01/2009	NOTICE OF ALLOWABILITY			
127	02/24/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
127	02/24/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
126	02/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
126	02/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
125	03/19/2009	DATE FORWARDED TO EXAMINER			
125	03/19/2009	DATE FORWARDED TO EXAMINER			
124	02/24/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
124	02/24/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
123	03/19/2009	DISPOSAL FOR A RCE / CPA / R129			
123	03/19/2009	DISPOSAL FOR A RCE / CPA / R129			
122	02/25/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
122	02/25/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			

121	02/25/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
121	02/25/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
120	02/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
120	02/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
119	02/24/2009	PETITION ENTERED			
119	02/24/2009	PETITION ENTERED			
118	02/24/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
118	02/24/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
117	02/20/2009	EXPORT TO FINAL DATA CAPTURE			
117	02/20/2009	EXPORT TO FINAL DATA CAPTURE			
116	02/19/2009	DISPATCH TO FDC			
116	02/19/2009	DISPATCH TO FDC			
115	02/19/2009	TC RETURN TO PUBS			
115	02/19/2009	TC RETURN TO PUBS			
114	02/12/2009	MAIL-PETITION DECISION - DISMISSED			
114	02/12/2009	MAIL-PETITION DECISION - DISMISSED			
113	02/12/2009	PETITION DECISION - DISMISSED			
113	02/12/2009	PETITION DECISION - DISMISSED			
112	11/17/2008	PUBS CASE REMAND TO TC			
111	01/13/2009	TC RETURN TO PUBS			
110	11/17/2008	PUBS CASE REMAND TO TC			
109	11/17/2008	PETITION ENTERED			
108	11/21/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
107	11/20/2008	ISSUE FEE PAYMENT VERIFIED			
106	11/20/2008	ISSUE FEE PAYMENT RECEIVED			
105	09/04/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
104	08/25/2008	EXPORT TO INITIAL DATA CAPTURE			
103	08/21/2008	MAIL NOTICE OF ALLOWANCE			
102	08/20/2008	ISSUE REVISION COMPLETED			
101	08/20/2008	DOCUMENT VERIFICATION			
100	08/20/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
99	08/13/2008	NOTICE OF ALLOWABILITY			
96	07/24/2008	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
95	07/24/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
94	08/07/2008	DATE FORWARDED TO EXAMINER			
93	07/24/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
92	08/07/2008	DISPOSAL FOR A RCE / CPA / R129			
91	07/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
90	07/24/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
89	07/11/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
88	07/01/2008	EXPORT TO INITIAL DATA CAPTURE			
87	06/30/2008	MAIL EXAMINER'S AMENDMENT			
86	06/30/2008	MAIL NOTICE OF ALLOWANCE			
85	06/25/2008	ISSUE REVISION COMPLETED			
84	06/25/2008	DOCUMENT VERIFICATION			
83	06/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	06/25/2008	EXAMINER'S AMENDMENT COMMUNICATION			
81	06/25/2008	NOTICE OF ALLOWABILITY			
80	06/20/2008	FINISHED INITIAL DATA CAPTURE			
74	06/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	06/10/2008	REFERENCE CAPTURE ON IDS			
72	06/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	06/14/2008	DATE FORWARDED TO EXAMINER			
70	06/10/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
69	06/14/2008	DISPOSAL FOR A RCE / CPA / R129			
68	06/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	06/10/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
66	03/27/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
65	03/17/2008	EXPORT TO INITIAL DATA CAPTURE			
64	03/11/2008	MAIL EXAMINER'S AMENDMENT			
63	03/11/2008	MAIL NOTICE OF ALLOWANCE			
62	03/04/2008	ISSUE REVISION COMPLETED			
61	03/04/2008	DOCUMENT VERIFICATION			

60	03/03/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	03/03/2008	EXAMINER'S AMENDMENT COMMUNICATION			
58	03/03/2008	NOTICE OF ALLOWABILITY			
55	02/26/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	02/26/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
53	02/29/2008	DATE FORWARDED TO EXAMINER			
52	02/26/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	02/29/2008	DISPOSAL FOR A RCE / CPA / R129			
50	02/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	02/26/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	01/18/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
47	01/07/2008	EXPORT TO INITIAL DATA CAPTURE			
46	01/04/2008	MAIL NOTICE OF ALLOWANCE			
45	01/04/2008	MAIL EXAMINER'S AMENDMENT			
44	12/31/2007	ISSUE REVISION COMPLETED			
43	12/31/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	12/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
41	12/31/2007	DOCUMENT VERIFICATION			
40	12/17/2007	EXAMINER'S AMENDMENT COMMUNICATION			
39	12/17/2007	NOTICE OF ALLOWABILITY			
38	06/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	10/17/2007	DATE FORWARDED TO EXAMINER			
32	10/09/2007	RESPONSE AFTER NON-FINAL ACTION		31	27
31	10/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	06/11/2007	REFERENCE CAPTURE ON IDS			
29	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	06/08/2007	MAIL NON-FINAL REJECTION			
26	06/05/2007	NON-FINAL REJECTION			
25	04/25/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

24	05/10/2007	DATE FORWARDED TO EXAMINER			
23	05/08/2007	RESPONSE TO ELECTION / RESTRICTION FILED		30	21
22	05/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	01/08/2007	MAIL RESTRICTION REQUIREMENT	480		-1
20	01/03/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
19	07/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	06/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	06/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	04/25/2005	REFERENCE CAPTURE ON IDS			
14.7	04/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/08/2004	APPLICATION RETURN FROM OIPE			
12	12/08/2004	APPLICATION RETURN TO OIPE			
11	12/08/2004	APPLICATION DISPATCHED FROM OIPE			
10	12/08/2004	APPLICATION IS NOW COMPLETE			
9	11/16/2004	ADDITIONAL APPLICATION FILING FEES			
8	11/16/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	09/16/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	09/02/2004	CLEARED BY OIPE CSR			
5	09/02/2004	CASE CLASSIFIED BY OIPE			
4	08/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/30/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	07/15/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	07/15/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Mario R. HUEDA, et *al.* :
Application No. 10/891,694 : DECISION ON PETITION
Filed: July 14, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **7061P001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 9, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received.

Thurman K. Page
Petitions Examiner
Office of Petitions

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GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON DE 19806

MAILED

SEP 0 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Coppens et al.	:	
Application No.: 10/891789	:	ON PETITION
Filing or 371(c) Date: 07/14/2004	:	
Attorney Docket Number:	:	
ASC-1USA	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed April 22, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed July 22, 2009. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on October 23, 2009. A Notice of Abandonment was mailed March 24, 2010.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1796 for processing of the Amendment filed with the petition in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7198449
Issue Date: April 3,2007
Application No. 10891928
Filed: July 15,2004
Attorney Docket No. DIL 2-009

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

This is a decision on the electronic petition, filed June 24,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 24,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7198449	2007-04-03	10891928	2004-07-15	DIL 2-009

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/J.K. Mueller, Jr./	Date (YYYY-MM-DD)	2011-06-24
Name	Jerry K. Mueller, Jr.	Registration Number	27576

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.

24 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

In re Application of	:	
MORIMOTO et al	:	
Application No.: 10/891,929	:	DECISION ON PETITION
Filing Date: July 14, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 4069.1007 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 4, 2009, which set a shortened statutory period for reply of three (3) months. An extension of time of three months under the provisions of 37 CFR 1.136(a) was obtained and a Notice of Appeal was filed on August 18, 2009. Accordingly, by operation of law, the above-identified application became abandoned on November 4, 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 a three-month extension of time and the filing of a continuation application under 35 U.S.C. 111(a) on January 19, 2010 (Application No. 12/684,494); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed March 4, 2009 is accepted as having been unintentionally delayed. The petition under 37 CFR 1.137(b) to revive the instant application is granted for purposes of continuity, which has been established by this decision reviving the instant application. The instant application became abandoned again on February 4, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/
Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
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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)
6,989,095	2006-01-24	10/891,963	2004-07-15	04 PAT 208

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/c. w. alworth/	Date (YYYY-MM-DD)	2011-05-16
Name	Charles W. Alworth	Registration Number	33824

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6989095
Issue Date: January 24,2006
Application No. 10891963
Filed: July 15,2004
Attorney Docket No. 04 PAT 208

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

This is a decision on the electronic petition, filed May 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 May 16,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Application of :
Yamakawa, et al. : ON PETITION
Application No. 10/891,980 :
Filed: July 14, 2004 :
Attorney Docket No. **11333/48**

This is a decision on the "Request for Reconsideration of the Patent Term Adjustment Pursuant to 37 CFR 1.705(b), filed September 2, 2011. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from six hundred and sixty-five (665) days to seven hundred and forty-one (741) days.

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

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is seven hundred and forty-one (741) days. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On June 23, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 665 days. Applicants timely filed the instant application for patent term adjustment.[1]

Applicants' state that the an adjustment to the patent term is warranted under 37 CFR 1.702(a)(2)and 37 CFR 1.703(a)(4)for the mailing of an examiners answer to an appeal brief on February 23, 2011, more than four months after the appeal brief in compliance with 37 CFR 41.37 was filed on August 10, 2010.

[1] PALM finance records indicate the issue fee was paid on September 2, 2011.

Applicants' contention is well taken. A review of the application file history reveals that an appeal brief in compliance with 37 CFR 41.37 was filed on August 10, 2010. The examiner's answer was not mailed until February 23, 2011, four months and 75 days after the appeal brief was filed. Accordingly, it is appropriate to enter an adjustment to the patent term of 75 days pursuant to 37 CFR 1.703(a)(4), with said period beginning on December 11, 2010, and ending on February 23, 2011, the day the examiner's answer was filed. **An adjustment to the patent term of 75 days is being entered accordingly.**

Applicants further maintain that the reduction to the patent term adjustment of 62 days under 37 CFR 1.704(b) for the filing of a response to a non-final Office action on November 12, 2009, is not warranted. Rather, applicants assert that the reduction to the patent term adjustment under 37 CFR 1.704(b) should be 61 days because the response to the non-final Office action was filed November 11, 2009. A review of the application file history and the instant petition confirms that the response to the non-final Office action was filed November 11, 2009, not November 12, 2009. Accordingly, the reduction to the patent term adjustment under 37 CFR 1.704(b) for the filing of the response on November 11, 2009, is 61 days, rather than 62 days. **The period of reduction to the patent term adjustment of 62 days is being removed, and a period of 61 days is being entered.**

In view thereof, the correct patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred and forty-one (741) days** (956 days of Office delay - 215 days of applicant delay).

Applicants are reminded that any delays by the Office pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office is in receipt of the $200.00 fee required under 37 CFR 1.18(e). No additional fees are due for this petition.

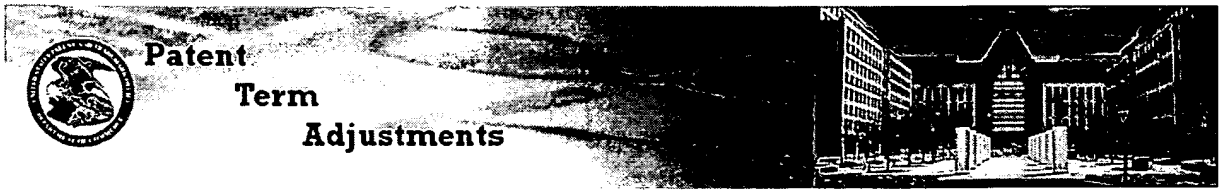
The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Attorney-Advisor
Office of Petitions

Enclosure: Copy of updated PAIR screen



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

Application Number*: 10891980 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10891980

Application Filing Date	07/14/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	881
A Delays	881	PTO Manual Adjustment	76
B Delays	0	Applicant Delay (APPL)	216
C Delays	0	Total PTA (days)	741

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
94	09/14/2011		P028	Adjustment of PTA Calculation by PTO	76	0	
87	06/23/2011		MN/=.	Mail Notice of Allowance		0	
86	06/21/2011		OAR	Office Action Review		0	
85	06/21/2011		OAR	Office Action Review		0	
84	06/21/2011		IREV	Issue Revision Completed		0	
83	06/21/2011		DVER	Document Verification		0	
82	06/15/2011		N/=.	Notice of Allowance Data Verification Completed		0	
81	06/15/2011		EX.R	Reasons for Allowance		0	
80	06/15/2011		CNTA	Allowability Notice		0	
76	06/09/2011		INHN	Not Inherited		0	
75	06/09/2011		DOCK	Case Docketed to Examiner in GAU		0	
74	06/03/2011		INHY	case Inherited		0	
73	06/03/2011		DOCK	Case Docketed to Examiner in GAU		0	
72	03/31/2011		FWDX	Date Forwarded to Examiner		0	
69	03/31/2011		ABN9	Disposal for a RCE / CPA / R129		0	
71	03/30/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
70	03/30/2011	06/16/2010	RCEX	Request for Continued Examination (RCE)		57	
68	03/30/2011		BRCE	Workflow - Request for RCE - Begin		0	
67	02/28/2011		PACC	Exam. Ans. Review Complete		0	
66	02/23/2011		MAPEA	Mail Examiner's Answer		0	
65	02/22/2011		APEA	Examiner's Answer to Appeal Brief		0	
64	02/22/2011		INHY	case Inherited		0	
63	02/22/2011		DOCK	Case Docketed to Examiner in GAU		0	
61	10/06/2010		DOCK	Case Docketed to Examiner in GAU		0	
60	08/26/2010		FWDX	Date Forwarded to Examiner		0	
58	08/21/2010		APBR	Appeal Brief Review Complete		0	
59	08/10/2010		AP.B	Appeal Brief Filed		0	
57	06/16/2010	05/18/2010	N/AP	Notice of Appeal Filed		29	51
56	06/16/2010		XT/G	Request for Extension of Time - Granted		0	
55	05/24/2010		MCTAV	Mail Advisory Action (PTOL - 303)		0	
54	05/21/2010		CTAV	Advisory Action (PTOL-303)		0	
53	05/12/2010		FWDX	Date Forwarded to Examiner		0	
52	05/11/2010		A.NE	Amendment after Final Rejection		0	
51	02/18/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
50	02/16/2010		CTFR	Final Rejection		0	
49	12/12/2009		FWDX	Date Forwarded to Examiner		0	
48	11/12/2009	09/11/2009	A...	Response after Non-Final Action		62	46
47	11/12/2009		XT/G	Request for Extension of Time - Granted		0	
46	06/11/2009		MCTNF	Mail Non-Final Rejection		0	
45	06/08/2009		CTNF	Non-Final Rejection		0	
42	04/16/2009		FWDX	Date Forwarded to Examiner		0	
40	04/16/2009		FWDX	Date Forwarded to Examiner		0	
38	04/16/2009		ABN9	Disposal for a RCE / CPA / R129		0	
44	04/15/2009		IDSC	Information Disclosure Statement considered		0	
43	04/15/2009		M844	Information Disclosure Statement (IDS) Filed		0	
41	04/15/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
39	04/15/2009	01/29/2009	RCEX	Request for Continued Examination (RCE)		76	34
37	04/15/2009		XT/G	Request for Extension of Time - Granted		0	
36	04/15/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
35	04/15/2009		BRCE	Workflow - Request for RCE - Begin		0	
34	10/29/2008		MCTFR	Mail Final Rejection (PTOL - 326)		0	
33	10/27/2008		CTFR	Final Rejection		0	
32	08/25/2008		FWDX	Date Forwarded to Examiner		0	
31	06/30/2008	05/12/2008	A...	Response after Non-Final Action		49	28
30	06/30/2008		XT/G	Request for Extension of Time - Granted		0	

29	04/02/2008		DOCK	Case Docketed to Examiner in GAU		0
28	02/12/2008	09/14/2005	MCTNF	Mail Non-Final Rejection	881	0.5
27	02/04/2008		CTNF	Non-Final Rejection		0
21	12/11/2007		DOCK	Case Docketed to Examiner in GAU		0
20	10/05/2007		DOCK	Case Docketed to Examiner in GAU		0
15	01/30/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
14	01/30/2006		DOCK	Case Docketed to Examiner in GAU		0
13	12/02/2004		TI1050	Transfer Inquiry to GAU		0
12	11/05/2004		WROIPE	Application Return from OIPE		0
11	11/05/2004		ROIPE	Application Return TO OIPE		0
10	11/05/2004		OIPE	Application Dispatched from OIPE		0
9	11/05/2004		COMP	Application Is Now Complete		0
19	10/27/2004		A.PE	Preliminary Amendment		0
8	10/27/2004		ADDFLFEE	Additional Application Filing Fees		0
7	10/27/2004		CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems		0
6	09/23/2004		CPAP	Corrected Paper		0
5	09/14/2004		L128	Cleared by L&R (LARS)		0
4	09/02/2004		L198	Referred to Level 2 (LARS) by OIPE CSR		0
3	09/02/2004		CLSS	CASE CLASSIFIED BY OIPE		0
2	08/06/2004		SCAN	IFW Scan & PACR Auto Security Review		0
17	07/17/2004		RCAP	Reference capture on IDS		0
25	07/14/2004		IDSC	Information Disclosure Statement considered		0
18	07/14/2004		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0
16.7	07/14/2004		M844	Information Disclosure Statement (IDS) Filed		0
16	07/14/2004		WIDS	Information Disclosure Statement (IDS) Filed		0
1	07/14/2004		IEXX	Initial Exam Team nn		0
0.5	07/14/2004		EFILE	Filing date		0

Export to: Excel

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Shanta M. MODAK et al.	:	
Application No. 10/892,034	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: July 15, 2004	:	
Attorney Docket No. **070050.2588**	:	

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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BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of
Sharon Patricia Mary Crouch, et al.
Application No. 10/892,285
Filed: July 16, 2004
Attorney Docket No. 024730.00016

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 May 10, 2011.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Banner & Witcoff, LTD. has been revoked by the assignee of the patent application on May 10, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

MAY 23 2011

OFFICE OF PETITIONS

VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of :
Kenneth Austin :
Application No. 10/892,533 : ON PETITION
Filed: July 15, 2004 :
Attorney Docket No. ROY-017 :

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

The petition is **GRANTED**.

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

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 17, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the two (2) month extension of time filed on January 14, 2011, under the provisions of 37 CFR 1.136(a), the date of abandonment of this application is January 18, 2011. A Notice of Abandonment was mailed March 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Petitioner should note, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with on March 22, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This application is being referred to Technology Center AU 2481 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Alicia Kelley-Collier
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. 7071336
Issue Date: July 4,2006
Application No. 10892578
Filed: July 16,2004
Attorney Docket No. 060525-5009US

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

This is a decision on the electronic petition, filed August 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 August 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)
7,071,336	2006-07-04	10/892,578	2004-07-16	060525-5009-00

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher I. Halliday/	Date (YYYY-MM-DD)	2010-08-05
Name	Christopher I. Halliday	Registration Number	42621

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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Paper No.

Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh PA 15213

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Pacella et al.	:	
Application No. 10/892,656	:	DECISION ON PETITION
Filed: July 16, 2004	:	PURSUANT TO
Attorney Docket No. AHS-4 CONT III	:	37 C.F.R. § 1.181(A)
Title: BLOOD PUMP DEVICE AND METHOD OF PRODUCING	:	

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 8, 2010.

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 March 25, 2010, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested, and no response was received. Accordingly, the above-identified application became abandoned on June 26, 2010. A notice of abandonment was mailed on October 29, 2010.

With this petition, Petitioner has asserted that two responses (an after-final amendment and a notice of appeal) were concurrently submitted along with a three-month extension of time on September 23, 2009. Petitioner has submitted copies of these responses and a postcard receipt which establishes that a "RESPONSE UNDER RULE 116" and a "NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES" were each received in the Office on September 28,

2010.[1]

Moreover, Office records reflect the receipt of the fees that are associated with the filing of a request for a three-month extension of time and the filing of a notice of appeal on September 28, 2010.

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 each of these submissions 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**.

It is noted in passing that the aforementioned after-final amendment submitted concurrently with this petition (originally submitted on September 23, 2010 and received in the Office on September 28, 2010) has been considered by the Examiner, and it has been determined that it fails to place the application in condition for allowance for the reason(s) set forth in the attached Advisory Action.

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 notice of appeal, submitted concurrently with this petition (originally submitted on September 23, 2010 and received in the Office on September 28, 2010), can be processed.

The Notice of Appeal has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the mailing date of this decision.**

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 the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in

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1 It is noted that both transmittal letters associated with the after-final amendment and the notice of appeal contain a certificate of mailing dated September 23, 2010, however it does not appear that Petitioner has provided a statement from the individual who executed the same. See 37 C.F.R. § 1.8(b)(3).

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/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

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 any of Petitioner's further action(s).

Advisory Action Before the Filing of an Appeal Brief	**Application No.**	**Applicant(s)**	
	10/892,656	PACELLA ET AL.	
	Examiner	**Art Unit**	
	Philip Stimpert	3746	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *6* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *27-29*.
   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 attached Response to Arguments.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 8 November 2010 have been fully considered but they are not persuasive.

2. In response to applicant's argument that the motor control system of Nolf is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Ohara teaches a pumping system having a motor speed control system. As such, other motor control systems are clearly pertinent to the problem of controllable, constant rate pumping with which Ohara is concerned. In particular, and contrary to applicant's assertions, both Ohara and Nolf relate to control systems designed to obtain a constant output speed using back electromotive force as feedback.

3. With respect to the argument that there is no teaching or suggestion motivating the combination of Ohara and Nolf, the examiner disagrees. As noted above, both Ohara and Nolf are related to motor speed control using back electromotive force feedback (see Ohara col. 7, ln. 46-47; see Nolf abstract, col. 1, ln. 45-50, and claim 1). Nolf specifically teaches that the motor speed control system is simple and inexpensive. Therefore, one of ordinary skill in the art, working in the field of back electromotive force speed control systems would be motivated to use the control system of Nolf in place of that of Ohara for simplicity and reduction in expense.

4. The examiner notes that the applicant's assertion that "Ohara does not indicate the need of back EMF control signals" is flatly contradicted by the reference itself, as cited above. Further, while Nolf does not specifically teach that the control system may be used with pumps, Nolf does explicitly consider use with fluid systems such as washing machines (col. 1, ln. 14), and indicates that other uses are possible. One of ordinary skill would expect that such uses would include a fluid pump such as that taught by Ohara, and would be motivated to look to Nolf and make the combination for the reasons laid out above.

5. With respect to the applicant's argument that the interruptor 6 of Nolf could lead to injury or death of a patient, the examiner disagrees with the applicant's characterization of the control system of Nolf. Firstly, reading the whole disclosure of Nolf, it is clear that the interruptor is only a component of the system as a whole, thus considering its behavior in isolation provides no practical insight into the behavior of the control system. Second, as explicitly stated by Nolf, "this current is interrupted only for short repetitive periods only" (col. 1, ln. 55). Considered as a whole, one of ordinary skill would expect the short repetitve periods of interruption to be fractions of a single electrical period, which in America is generally on the close order of 1/120th of a second (i.e. one period of AC provided at 120 hz). This is clearly insufficient time to cause one of ordinary skill to have any concern for patient injury or death during periods of interrupted current caused by the system of Nolf.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Stimpert whose telephone number is (571)270-1890. The examiner can normally be reached on Mon-Fri 7:30AM-4:00PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. S./
Examiner, Art Unit 3746
8 December 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
Hodjat et al. :
Application No. 10/892,746 :
Filed: July 16, 2004 :
Attorney Docket No. DEJI 1000-17US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 8, 2010.

The request is **NOT APPROVED**.

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

In the instant application, the practitioner(s) were appointed power of attorney individually via Registration Number; however the request indicates withdrawal as attorney by Customer Number.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The request cannot be approved since withdrawal by the proper designation was not made and there is no Statement under 37 CFR 3.73(b) filed in the patent application.

Petitioner should note, pursuant to the Official Gazette: Change in Procedure for Requests to Withdraw from Representation in a Patent Application, any Requests filed after a patent has issued will be placed in the file but will generally not be treated on their merits. Sections 2540

and 2542 of the Manual of Patent Examining Procedure (MPEP) explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented file and to direct notices, receipts and other communications relating to maintenance fees. Sections 2540 and 2542 of the MPEP recommend the designation of a "fee address" or the submission of a change in the correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, "Fee Address" Indication Form and Form PTO/SB/123, entitled, Change of Correspondence Address, Patent. The change in practice in this notice applies to Requests filed on or after May 12, 2008.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/19/11

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10892770 Patent No.: 7693022

CofC mailroom date:
05/10/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
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 RESPONSE FOR CERTIFICATE OF CORRECTION

/Joseph H. Feild/

SPE Art Unit

2627

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

MAILED
DEC 13 2011
OFFICE OF PETITIONS

In re Patent No. 7,077,076	:	
Issue Date: July 18, 2006	:	
Application No. 10/892,781	:	NOTICE
Filed: July 16, 2004	:	
Attorney Docket No. 66673/48728	:	

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

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

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

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

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

/Thurman K. Page/
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

KIRTON & MCCONKIE
1800 EAGLE GATE TOWER / 60 EAST SOUTH TEMPLE
P.O. BOX 45120
SALT LAKE CITY UT 84145-0120

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application
John Charles Dalrymple et al.
Application No. 10/892,845
Filed: July 16, 2004
Attorney Docket No. 10237.26

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed October 18, 2010. Applicant requests that the determination of patent term adjustment be corrected from 579 to 1389 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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 DOCKET DEPARTMENT
ARMSTRONG TEASDALE LLP
7700 FORSYTH BOULEVARD
SUITE 1800
ST. LOUIS, MO 63105

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,261,116 :
Issue Date: August 28, 2007 :
Application No. 10/892,954 : DECISION DISMISSING PETITION
Filed: July 16, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 23937-12 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on May 27, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application.

The petition is **DISMISSED**.

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

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted. In the case of an issued patent, applicant must file either a reissue application or a request for certificate of correction with an amendment adding the specific reference of the prior-filed application to the first sentence of the specification. *See* MPEP 1481.
>
> (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 instant petition does not comply with item (1).

Petitioner failed to submit a reissue application or a request for certificate of correction, including the $100 fee and an amendment adding the specific reference of the prior-filed application to the first sentence of the specification.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) must be filed along with a reissue application or a request for certificate of correction including the $100 fee and an amendment [1] stating the relationship of the prior-filed application to the instant application.

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[2]

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

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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[1] Note 37 CFR 1.121

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

PATENT
23937-12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,261,116

Application No. 10/892,954

Issue Date: August 28, 2007

Inventor(s): Robert R. Cantwell

Assignee: North Pole Limited

Title: TENT WITH EXTENDABLE WINDOWS

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. 1.323

Sir:

Submitted herewith is a Form PTO/SB/44 suitable for printing and a copy of the BIBDATASHEET dated December 13, 2004.

Assignee respectfully submits that the correction shown below and in the Form PTO/SB/44 is in accordance with the patent application as originally filed on August 28, 2007. More specifically, the instant application is a continuation of application No. 10/086,514 filed on February 28, 2002, now Patent No. 6,763,841, which claims the benefit of application No. 60/272,385 filed on February 28, 2001.

Assignee respectfully submits that the nature, i.e., type, of mistake is of a clerical nature and/or of minor character. Assignee respectfully submits that the requested change would not materially affect the scope or meaning of the patent. Assignee respectfully submits that the correction does not involve changes which would constitute new matter or require reexamination.

Assignee respectfully requests a Certificate of Correction for the following:

On the face of the patent, after Prior Publication Data and before the classification information, please add:

Related U.S. Application Data

Continuation of application No. 10/086,514, filed on Feb. 28 2002, now Pat. No. 6,763,814.

Provisional application No. 60/272,385, filed on Feb. 28, 2001.

Please replace the paragraph at column 1, lines 3-7 with the following paragraph:

This application is a continuation of U.S. patent application Ser. No. 10/086,514 entitled "TENT WITH EXTENDABLE WINDOWS" and filed on Feb. 28, 2002, which claims priority from U.S. Provisional Application Ser. No. 60/272,385, filed Feb. 28 2001.

Assignee submits herewith a fee for providing correction of applicant's mistake as set forth in 37 CFR 1.20(a).

The Assignment for this patent is recorded on Reel/Frame No. 015597/0644.

Respectfully submitted,

Date: June 24, 2011

Patrick W. Rasche
Reg. No. 37,916
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, MO 63105
(314) 621-5070

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

OK TO ENTER: /J.W./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,261,116

APPLICATION NO.: 10/892,954

ISSUE DATE : August 28, 2007

INVENTOR(S) : Robert R. Cantwell

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:

On the face of the patent, after Prior Publication Data and before the classificiation information, please add:

Related U.S. Application Data

Continuation of application No. 10/086,514, filed on Feb. 28, 2002, now Pat. No. 6,763,814.

Provisional application No. 60/272,385, filed on Feb. 28, 2001.

Please delete the paragraph at column 1, lines 3-7, and replace with the following paragraph:

This application is a continuation of U.S. patent application Ser. No. 10/086,514 entitled "TENT WITH EXTENDABLE WINDOWS" which was filed on Feb. 28, 2002, which claims priority from U.S. Provisional Application Ser. No. 60/272,385, filed Feb. 28, 2001.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Armstrong Teasdale LLP
7700 Forsyth Blvd., Suite 1800
St. Louis, MO 63105

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.

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

BIBDATASHEET

Bib Data Sheet

CONFIRMATION NO. 3640

SERIAL NUMBER	FILING DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/892,954	07/16/2004 RULE	135	3637	NRTH-P109C1

APPLICANTS

Robert R. Cantwell, Leslie, MO;

** CONTINUING DATA **********

This application is a CON of 10/086,514 02/28/2002 PAT 6,763,841 which claims benefit of 60/272,385 02/28/2001

** FOREIGN APPLICATIONS **********

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 09/08/2004

Foreign Priority claimed	STATE OR	SHEETS	TOTAL	INDEPENDENT
☐ yes ☒ no				
35 USC 119 (a-d) conditions met ☐ yes ☒ no ☐ Met after Allowance	COUNTRY	DRAWING	CLAIMS	CLAIMS
Verified and Acknowledged Examiner's Signature Initials	MO	4	20	2

ADDRESS
32986
IPSG, P.C.
P.O. BOX 700640
SAN JOSE , CA
95170-0640

TITLE
Tent with extendable windows

FILING FEE	FEES: Authority has been given in Paper	☐ All Fees
RECEIVED 770	No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/28/2011

TO SPE OF : ART UNIT 3637

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/892954 Patent No.: 7261116 B2

CofC mailroom date: 6/24/2011

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: _____

DARNELL JAYNE
QUALITY ASSURANCE SPECIALIST SPE 3637

_____ _____
SPE **Art Unit**

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**

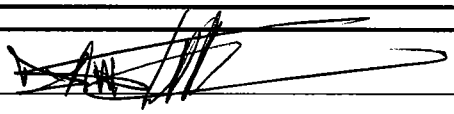
Attorney Docket Number: P034473.US.02	Patent Number: 7,662,987
Filing Date (or 371(b) or (f) Date): July 15, 2004	Issue Date: February 16, 2010
First Named Inventor: Laxminarayan Bhat	
Title: Methods for Synthesis of Acyloxyalkyl Compounds	

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

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

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

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

Signature 	Date August 4, 2010
Name (Print/Typed) David L. Walker	Registration Number 53,735

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

☑ *Total of 1 forms are submitted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

Mail Date: 08/11/2010

Applicant	: Laxminarayan Bhat	: DECISION ON REQUEST FOR
Patent Number	: 7662987	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/893,130	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 15 2010

OFFICE OF PETITIONS

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

In re Patent of Wanglin Yu et al.	:	DECISION ON REQUEST
Patent No. 7,705,528	:	FOR RECONSIDERATION OF
Issue Date: April 27, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/893,182	:	AND NOTICE OF INTENT TO
Filing Date: July 16, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. Q93526	:	CORRECTION

This is a decision on the paper filed June 24, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand two hundred sixty-five (1265) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand two hundred sixty-five (1265) 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.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand two hundred sixty-five (1265)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,705,528 B2
APPLICATION NO.	:	10/893,182
DATED	:	April 27, 2010
INVENTOR(S)	:	Wanglin Yu 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 971 days.

Delete the phrase "by 971 days" and insert -- by 1265 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

MANELLI SELTER PLLC
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,188,033 :
Issue Date: 6 March, 2007 :
Application No. 10/893,280 :
Filed: 19 July, 2004 :
Attorney Docket No. 62-226-HH :

ON PETITION

This is a decision on the petition filed on 18 August, 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.

Petitioners also are reminded to chart out the fees paid/fees due/balance due in their submission(s) to the Office. (*See, generally*: 37 C.F.R. §1.27, §1.28, MPEP §509.02 and 509-03.)

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.

Patent No. 7,188,033
Application No. 10/893,280

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 the IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/893,450	07/16/2004	John K. Demers	100773.53940US	5535

57541 7590 09/01/2011

SPRINT NEXTEL CORPORATION
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

EXAMINER	
KAO, JUTAI	

ART UNIT	PAPER NUMBER
2473	

MAIL DATE	DELIVERY MODE
09/01/2011	PAPER

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

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

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MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

MAILED

SEP 01 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of:
DEMERS, JOHN K. et al.
Application No. 10/893,450
Filed: July 16, 2004
For: WIRELESS COMMUNICATIONS SYSTEM INCLUDING A TARGET BASE STATION CAPABLE OF NOTIFYING OF CHANNEL RESOURCE RESERVATION STATUS

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed July 26, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed July 15, 2011.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action mailed July 15, 2011. In the petition, Applicant's counsel alleged that the finality of the Office Action was improper because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection.

Applicant's amendments to the body of claim 28, filed May 12, 2011, do not modify the preamble of claim 28 or the limitation "computer readable medium", the phrase upon which the new grounds of rejection under 35 U.S.C. §101 is based. Therefore, the amendments to claim 28 do not justify the new grounds of rejection for claims 28-33 based upon 35 U.S.C. §101.

Applicant's amendments to the body of claim 1 do not affect the antecedent basis for "said wireless medium" in claim 4, which depends from claim 1. Therefore, Applicant's amendments do not justify the new grounds of rejection for claims 4-7, which depend from claim 1, under 35 U.S.C. §112, second paragraph.

Since the Examiner presented multiple new grounds of rejection, neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement, the finality of the July 15, 2011 Office Action is improper and is hereby withdrawn.

Accordingly, the petition is **GRANTED.**

The application will be forwarded to the examiner for consideration of applicant's arguments.

Any inquiry concerning this decision should be directed to Christopher Grant at 571-272-7294.

8/31/11

John Miller
Director Technology Center 2400
Networking, Multiplexing, Cable and Security

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TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE AZ 85255-9603

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Milan CEROVIC et al. :
Application No. 10/893,467 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,143,539 :
Filed: July 15, 2004 :
Attorney Docket No. 101.00027

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, NW., Suite 1200
WASHINGTON DC 20006

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FEB 08 2011

OFFICE OF PETITIONS

In re Application of :
Aubrey Burke et al. :
Application No. 10/893,527 : ON PETITION
Filed: July 19, 2004 :
Attorney Docket No. 000310-00208 :

This is a decision on the petition filed June 19, 2009 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of September 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). Accordingly, the date of abandonment of this application is December 12, 2008. A Notice of Abandonment was mailed on March 20, 2009.

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

1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As to item 1, the amendment filed on June 19, 2009, does not *prima facie* place the application in condition for allowance, therefore 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). See attached courtesy copy of the advisory action.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on June 19, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/893,527	BURKE ET AL.	
	Examiner	Art Unit	
	ALICIA CHEVALIER	1783	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 June 2009 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: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *1-12*.
   Claim(s) withdrawn from consideration: *none*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Alicia Chevalier/
Primary Examiner, Art Unit 1783

Continuation of 3. NOTE: Newly Amended claims 1, 3-5 and 7 raise(s) new issues requiring a novel search and further consideration because it now recites "an upper," "middle" and "lower" laminae.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are drawn to a proposed claim amendment which is not being entered; thus, the arguments are not commensurate in scope with the claims.

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In re Application of
Robert T. Barnet

Application No. 10893593

Filed: July 15,2004

Attorney Docket No. TBC-Placement-Nprov

: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 03-AUG-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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
ANNANDALE NJ 08801-0900

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MAY 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Farng et al.	:	
Application No. 10/893,599	:	DECISION ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. JJD-0416	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 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 July 22, 2010, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 23, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed March 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1771 for appropriate action by the Examiner in the normal course of business on the reply received.

/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)
6948294	2005-09-27	10893600	2004-07-16	2059-102

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

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/robert l epstein/	Date (YYYY-MM-DD)	2010-12-07
Name	Robert L Epstein	Registration Number	26451

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. 6948294
Issue Date: September 27,2005
Application No. 10893600
Filed: July 16,2004
Attorney Docket No. 18134.0012

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

This is a decision on the electronic petition, filed December 7,2010 ,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 7,2010 . 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)
7244076	2007-07-17	10893812	2004-07-19	9487.18572

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tiffany L. Williams/	Date (YYYY-MM-DD)	2011-08-03
Name	Tiffany L. Williams	Registration Number	59549

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. 7244076
Issue Date: July 17,2007
Application No. 10893812
Filed: July 19,2004
Attorney Docket No. 9487.18572

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

This is a decision on the electronic petition, filed August 3,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 3,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
FEB 14 2012
OFFICE OF PETITIONS

In re Application of :
Hashem et al. :
Application No. 10/893,842 :
Filed: July 19, 2004 :
Attorney Docket Number: Q103145 :
Title: METHOD OF CONTROLLING :
BASE STATION TRANSMITTING POWER :
DURING SOFT HANDOFF :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.181(A)

This is a decision on the petition filed January 30, 2012, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on June 28, 2011. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on August 29, 2011. A Notice of Abandonment was mailed on January 17, 2012.

With this petition, Petitioner has indicated that extensions of time were still available, and as such, he was in a position to purchase an extension of time.

It is noted that an Appeal Brief was filed concurrently with this petition, along with a five-month extension of time.[1]

Petitioner's argument has been considered, and it has been deemed to be persuasive.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

1 January 28, 2012 fell on a Saturday.

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 Appeal Brief submitted on January 30, 2012 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 withdrawal of the holding of abandonment 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

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120322

DATE : March 22, 2012

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 8,031,671

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/DWAYNE BOST/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fellers, Snider, Blankenship, Bailey & Tippens, PC
(Seagate Technology LLC)
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

MAILED

FEB 04 2011

OFFICE OF PETITIONS

In re Application of Lum et al. :
Application No. 10/893,853 : On Application For
Filing Date: July 19, 2004 : Patent Term Adjustment
Attorney Docket No. STL11830 :

This is in response to the "Request for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance" filed August 31, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is four hundred seventy-six (476) days, not three hundred fifty-eight (358) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. The only basis cited by Applicants in support of the correction is 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 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 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 regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] 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

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

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Verpoort et al.	:	
Patent Number: 7,687,635	:	DECISION ON PETITION
Issue Date: 03/30/2010	:	FOR RECONSIDERATION OF
Application No. 10/894308	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/19/2004	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
03/30/2010	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred seventy-nine (1579) 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 an additional one hundred ninety-seven (197) days, for a total adjustment of one thousand five hundred seventy-nine (1579) days is **GRANTED to the extent indicated herein**.

Regarding the period of adjustment of 28 days and 57 days in connection with the filing of drawings on January 5, 2010, after the mailing of a Notice of Allowance, pursuant to 37 CFR 1.704(c)(10), a review of the application history confirms that an Office action in response to the drawings was mailed on February 1, 2010, 28 days after the date the drawings were filed. The reduction of 57 days is in error and has been removed.

As to the "B" delay, the period of adjustment is 985 days; however, to the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. 35 U.S.C. 154(b)(2)(A), 37 CFR 1.702(f). In this instance, the period of adjustment of 736 days pursuant to 37 CFR 1.702(a)(1) overlaps with the period of adjustment pursuant to 37 CFR 1.702(b), for a period of 68 days, and the period of adjustment of 13 days pursuant to 37 CFR 1.702(a)(4) overlaps with the period of adjustment pursuant to 37 CFR 1.702(b). Thus the "B" period of adjustment is reduced by 81 days.

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

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand four hundred ninety-eight (1498) days.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,687,635 B2

DATED : **March 30, 2010**

INVENTOR(S) Verpoort 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 1441 days.

Delete the phrase "by 1441 days" and insert – by 1498 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100927

DATE : September 27, 2010

TO SPE OF : ART UNIT 2474

SUBJECT : Request for Certificate of Correction on Patent No.: 7466700

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:

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2474

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/22/11

TO SPE OF : ART UNIT 2432

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/894,493 Patent No. 7,707,427

CofC mailroom date 3/15/11

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

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: Address is correct as per original OATH

/Gilberto Barron Jr./ 2432

SPE **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 4/15/2011
Patent No. : 7,707,427
Serial No. : 10/894,493
Inventor(s) : Kenrich et al.
Issue Date : April 27, 2010
Title : **MULTI-LEVEL FILE DIGESTS**
Doc./File No. : **2222.5510000**

Re: Consideration for Certificate of Correction

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

Respecting the alleged error(s) in your request, Inventors' addresses are printed in accordance with the Declaration or Oath.

A petition under C.F.R. 1.182 is required to correct the alleged error in the inventor(s) address, since inventors' addresses are printed in accordance with the *"Residence Address in assigned patents or P.O. Box Address for not assigned patents"* on the Declaration. The error is the result of applicants' failure to comply with requirements that the complete and correct address be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

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

Any 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
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
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).

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

ECW

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF LARRY K. ROBERTS, INC.
2603 MAIN STREET
9TH FLOOR
IRVINE CA 92614-6232

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FEB 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,202,794 :
Issued: April 10, 2007 :
Application No. 10/894,570 : ON PETITION
Filed: July 20, 2004 :
Attorney Docket No. 1742 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 17, 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Larry K. Roberts
P.O. Box 8569
Newport Beach, CA 92658-8569

UNITED STATES PATENT AND TRADEMARK OFFICE

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300 S WACKER DR
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CHICAGO, IL 60606

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AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Paslawski et al. :
Application No. 10/894,571 : ON PETITION
Filed: July 20, 2004 :
Attorney Docket No. 0469.69802 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 8, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on March 9, 2010.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 9, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This application is being referred to Technology Center 3781 for further examination on the merits

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/29/12

TO SPE OF : ART UNIT 2484

SUBJECT : Request for Certificate of Correction for Appl. No.: 10894617 Patent No.: 7873258

CofC mailroom date: 02/21/12

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
[redacted]

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:

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: _____

THAO T. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER ~~2600~~ 2400

2484

SPE **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
www.uspto.gov

Qwest Communications International Inc.
1801 California St., #900
Denver CO 80202

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
J. Clarke Stevens, et al.	:	
Application No. 10/894,698	:	DECISION ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No. 020366-105400US	:	

This is a decision on the 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 non-final Office action mailed, November 3, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 4, 2010. The Notice of Abandonment was mailed August 3, 2010.

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

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

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

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Chad E. King**
8210 SouthPark Terrace
Littleton, CO 80120

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: 139177-US-NP	Patent Number: 7,660,241
Filing Date (or 371(b) or (f) Date): July 20, 2004	Issue Date: February 9, 2010
First Named Inventor: Kamakshi Sridhar	
Title: Load balancing in a virtual private 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 /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

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

☑ *Total of 1 forms are submitted.

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

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

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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Docket Administrator - Room 3D-201
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974-0636

Mail Date: 08/17/2010

Applicant	: Kamakshi Sridhar	: DECISION ON REQUEST FOR
Patent Number	: 7660241	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/894,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1534** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Alan W. Steele
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application :
Krieg, et al. :
Application No. 10/894,862 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: July 16, 2004 :
Dkt. No.: C1039.70048US10 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 29, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 588 days, not 217 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
Attorney Advisor
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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GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of :
Andrew Van Luchene, et al. :
Application No.: 10/895,181 : DECISION ON PETITION
Filed: July 19, 2004 :
Attorney Docket No.: 3208102 :

This is a decision on the petition, filed August 19, 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 **DISMISSED**.

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

This application was held abandoned for failure to reply to the non-final Office action mailed December 15, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 13, 2009. On August 19, 2009, the present petition was filed.

Petitioner asserts that the Office action dated December 15, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action of December 15, 2008, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item 2 of the above-stated requirements, in that petitioner has failed to indicate whether a search of the file jacket or equivalent was made. Accordingly, 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, petitioner may wish to consider filing a petition under the avoidable standards pursuant to 37 CFR 1.137(a) or the unintentional standard pursuant to 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[1]

[1] 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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

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SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
Andrew Van Luchene, et al. :
Application No. 10/895,181 : DECISION ON PETITION
Filed: July 19, 2004 :
Attorney Docket No.: 3208102 :

This is a decision on the renewed petition, filed August 17, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to a non-final Office action mailed December 15, 2008. A Notice of Abandonment was mailed on August 19, 2009. On September 3, 2009, a petition to withdraw the holding of abandonment under 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed August 12, 2010. In response, on August 17, 2010, the present petition was filed.

On reconsideration, petitioner has adequately supported his claim of non-receipt with the evidence provided.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2625 technical support staff for **re-mailing** the Office action of December 15, 2008. The period for reply will run from the mailing date of the Office action.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10895181
Filing Date	19-Jul-2004
First Named Inventor	Andrew Van Luchene
Art Unit	2625
Examiner Name	STEVEN KAU
Attorney Docket Number	3208102
Title	Products and processes for regulation of network access and file sharing

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 52297

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

10.40(c)(1)(iv)

10.40(b)(c)(1)(vi)

10.40(c)(5)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Andrew Van Luchene
Address	1012 Marquez Pl #205a
City	Santa Fe
State	NM

Postal Code	87505
Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Ellen Gonzales/
Name	Ellen Gonzales
Registration Number	44128

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : April 27,2011

In re Application of :

Andrew Van Luchene

Application No : 10895181

Filed : 19-Jul-2004

Attorney Docket No : 3208102

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 27,2011

The request is **APPROVED.**

The request was signed by Ellen Gonzales (registration no. 44128) on behalf of all attorneys/agents associated with Customer Number 52297 . All attorneys/agents associated with Cusotmer Number 52297 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	Andrew Van Luchene
Name2	
Address 1	1012 Marquez Pl #205a
Address 2	
City	Santa Fe
State	NM
Postal Code	87505
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Beckman c/o Morrison & Foerster, LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 02130-2040

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Alan Trochman :
Application No. 10/895,265 : DECISION ON PETITION
Filed: July 20, 2004 : TO WITHDRAW
Attorney Docket No. 482022003000 : 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 2, 2010.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 63804 has been revoked by the assignee of the patent application on November 17, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: M & G Beckman Coulter
P.O. Box 2903
Minneapolis, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/210

TO SPE OF : ART UNIT 3774

SUBJECT : Request for Certificate of Correction for Appl. No 10/895269.: 7695512

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

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SEP 28 2010

OFFICE OF PETITIONS

In re Application of :
BERNARD HUBLOT ET AL. :
Application No. 10/895,455 :
Filed: December 23, 2004 :
Attorney Docket No. **0552-1023-1** :

NOTICE

This is a notice regarding your request filed August 17, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **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/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THOUSAND OAKS CA 91320-1799

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OCT 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,781,395	:	
Issue Date: August 24, 2010	:	
Application No. 10/895,581	:	ON PETITION
Filed: July 21, 2004	:	
Attorney Docket No. 3470-US-NP	:	

This is a decision on the petition filed September 17, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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)
7095435	2006-08-22	10895615	2004-07-21	H9596

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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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 L. Hartman/	Date (YYYY-MM-DD)	2010-10-18
Name	Richard L. Hartman		

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 7095435
Issue Date: August 22,2006
Application No. 10895615
Filed: July 21,2004
Attorney Docket No. H9596

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

This is a decision on the electronic petition, filed October 18,2010 ,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 18,2010 .
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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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of

Sibi, et al.

Application No. 10/895,647

: DECISION ON PETITION

Filed: July 21, 2004

Attorney Docket No. **255.00180101**

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 3, 2009, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on May 4, 2009. A Notice of Abandonment was mailed October 2, 2009.

The amendment filed February 8, 2011, is noted.

The application is being forwarded to Technology Center 1600, GAU 1621 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FEB 11 2011

OFFICE OF PETITIONS

INTERNATIONAL ENGINE INTELLECTUAL PROPERTY COMPANY
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

In re Application of	:	
Roger C. Kenitz	:	
Application No. 10/895,659	:	DECISION ON PETITION
Filed: July 21, 2004	:	
Attorney Docket No. D5559	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 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 pay the issue and publication fees on or before January 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2008. Accordingly, the date of abandonment of this application is January 3, 2009. A Notice of Abandonment was mailed on January 28, 2009.

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

As to item (3) the statement of unintentional delay is presently not acceptable since the petition not signed. Please provide all information that applies to the application on pages 1 and 2 of the petition.

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

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

By 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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4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

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MAY 10 2011
OFFICE OF PETITIONS

In re Application of :
Roger C. Kenitz :
Application No. 10/895,659 : DECISION ON PETITION
Filed: July 21, 2004 :
Attorney Docket No. D5559 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2008. Accordingly, the date of abandonment of this application is January 3, 2009. A Notice of Abandonment was mailed on January 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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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LAW OFFICE OF ROBERT M. WALLACE
2112 EASTMAN AVENUE, SUITE 102
VENTURA CA 93003

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Application of	:	
HANAWA, et al	:	
Application No. 10/895,784	:	DECISION ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No. 009003 08	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 9, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 7, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 10, 2011. A Notice of Abandonment was mailed May 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) a statement of unintentional delay.

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

The submission of the Request for Continued Examination (RCE) is acknowledged and will be processed by the Technology Center.

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

All other telephone inquiries should be directed to the Technology Center at (571) 272-2800.

The application is being referred to Technology Center AU 2823 for processing of the RCE within the normal course of business.

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

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Paper No.

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

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,415,617	:	DECISION ON REQUEST
Ginter et al.	:	FOR
Issue Date: August 19, 2008	:	RECONSIDERATION OF
Application No. 10/895,845	:	PATENT TERM ADJUSTMENT
Filed: July 22, 2004	:	and
Atty Docket No. 7451.0005-05	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 12, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred forty-nine (449) days.

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

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred eight **(408)** days.

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

The B delay is 98 days, not 99 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 July 23, 2007, and

ended on October 28, 2007, *the day before* the RCE was filed, and is 985 (not 99) days. *See* 35 U.S.C. § 154(b)(1)(B)(i).

In addition, a review of the record reveals an additional basis for entry of a period of reduction of 40 days. The response to the final Office action mailed June 19, 2007, was filed on October 29, 2007, three months and 40 days later. Thus, a period of reduction pursuant to 1.704(b) of 40 days is being entered.

In view thereof, the patent term adjustment is increased by 98 days and decreased by 40 days to a revised patent term adjustment of 408 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 four hundred eight (408) 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 : 7,415,617 B2

DATED : **August 19, 2008** **DRAFT**

INVENTOR(S) : Ginter 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 350 days

Delete the phrase "by 350 days" and insert – by 408 days--

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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NOV 09 2010

OFFICE OF PETITIONS

In re Application of :
Tomas KREUTZ :
Application No. 10/895,919 : DECISION ON PETITION
Filed: July 22, 2004 :
Attorney Docket No. 15258-000019/US :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 11, 2007, which set a shortened statutory period for reply of two (2) months. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 12, 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.

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

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

This application is being referred to Technology Center AU 2831 for appropriate action by the Examiner in the normal course of business.

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

Cc: JOHN W. FITZPATRICK
11730 PLAZA AMERICAN DRIVE, SUITE 600
RESTON,VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Arent Fox LLP
555 West Fifth Street
48th Floor
Los Angeles CA 90013

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,111,462
Issue Date: September 26, 2006
Application No. 10/896,309
Filed: July 21, 2004
Attorney Docket No. 071133-014

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 13, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 27, 2010 for failure to pay the 3 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 re-instated as of the mail date of this decision.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRIAN STEINBERGER/UCF
101 BREVARD AVENUE
COCOA, FL 32922

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SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
Nazin Z. Muradov :
Application No. 10/896,312 : DECISION ON PETITION
Filed: July 20, 2004 :
Attorney Docket No. UCF-338DIV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 29, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 29, 2010. Accordingly, the date of abandonment of this application is July 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

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SEP 09 2010

OFFICE OF PETITIONS

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

In re Application of Gary Reinert Sr. :
Application No. 10/896,416 : Decision Dismissing Petition
Filing Date: July 22, 2004 : Under 37 CFR 1.78(a)(3)
Attorney Docket No. 5433-072222 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 18, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to several prior-filed nonprovisional applications.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.78."

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) to the prior-filed application, unless previously submitted;
(2) The surcharge set forth in § 1.17(t); and
(3) A statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) 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. Specifically, the priority claims set forth in the reference are improper for the reasons discussed in this decision.

Nomenclature

In order to minimize confusion, the Office will use the following names to refer to each of the corresponding applications/patents.

Application A	The instant application
Application B	Application No. 10/393,150 (Patent No. 6,773,136)
Application C	Application No. 09/796,394 (Patent No. 6,572,240)
Application D	Application No. 09/514,089 (Patent No. 6,196,697)
Application E	Application No. 09/113,980 (Patent No. 6,033,083)
Application F	Application No. 08/687,809 (Patent No. 5,779,349)
Application G	Application No. 08/002,014 (Patent No. 5,541,362)
Application H	Application No. 08/058,356 (Patent No. 5,594,201)
Application I	Application No. 08/464,736 (Patent No. 5,785,409)

Background

Petitioner seeks for the instant application to include priority claims indicating:

(1) Application A is a divisional of Application B;
(2) Application B is a divisional of Application C;
(3) Application C is a continuation-in-part of Application D;
(4) Application D is a continuation-in-part of Application E;
(5) Application E is a continuation-in-part of Application F; and
(6) Application F is a continuation-in-part of Applications G, H, and I.

The instant application (Application A) already includes priority claims (1), (2), and (3) set forth above. The petition seeks to add priority claims (4), (5), and (6) by amendment.

The Office previously issued a decision dismissing the prior petition because the intermediate applications in this case did not contain the appropriate references. The decision stated petitioner must take the following steps in order to add the priority claims in this case:

(A) File a petition under 37 CFR 1.78(a)(3) in Application B to add priority claims (4), (5), and (6);
(B) File a request for a certificate of correction in Application B in order to add language to the patent including priority claims (4), (5), and (6);
(C) File a request for a certificate of correction in Application C in order to correct the typographical error on the patent noted in the decision[1] and to add priority claim (6) to the patent;
(D) File a request for a certificate of correction in Application D in order to correct the typographical error on the patent noted in the decision[2] and to add priority claims (5) and (6) to the patent;
(E) File a request for a certificate of correction in Application E in order to add priority claims (5) and (6);

[1] The patent incorrectly lists the application number for Application No. 09/113,980, as Application No. 09/118,980.

[2] The patent incorrectly lists the application number for Application No. 09/113,980, as Application No. 09/118,980.

(F) File a request for a certificate of correction in Application F in order to add priority claim (6); and

(G) Filing a request for reconsideration in the instant case that includes a statement that steps (A)-(F) have been taken.

Steps A and B

On January 15, 2010, petitioner filed a petition under 37 CFR 1.78(a)(3) and a request for a certificate of correction in Application B to correct the matters identified in the prior decision.

The Office mailed a decision granting the petition on August 30, 2010. The decision instructs the Certificates of Correction branch to issue the requested certificate of correction. However, as of September 8, 2010, the requested certificate of correction has not yet been issued.

Step C

On January 15, 2010, petitioner filed a request for a certificate of correction in Application C to correct the matters identified in the prior decision. A decision denying the request was issued May 7, 2010.

Step D

On January 15, 2010, petitioner filed a request for a certificate of correction in Application D to correct the matters identified in the prior decision. As of September 8, 2010, Office computer records fail to indicate the request has been granted or denied.

Step E

On January 15, 2010, petitioner filed a request for a certificate of correction in Application E to correct the matters identified in the prior decision.

The request was added to the physical file wrapper for Application E on September 8, 2010. Thereafter, the physical file wrapper and the request were sent to Certificates of Correction Branch for consideration of the request for a certificate of correction.

Step F

Further review of the record indicates Step F is unnecessary in order to add the priority claims.

Discussion

Since none of the requested certificates of correction have been granted and issued, the intermediate applications in this case did not contain the appropriate references. Therefore, the petition cannot be granted.

Petitioner's Current Options

Option 1

Petitioner may take no further action and continue to prosecute the application with the current priority claims.

Option 2

Petitioner has the option of filing a petition which only seeks to add priority claim (4) because, even though a certificate of correction has not issued in Application B, the decision on petition issued in Application B is sufficient to support a decision in this case to add priority claim (4).

Option 3

Petitioner may file a request for reconsideration which continues to seek to add priority claims (4), (5), and (6).

If this option is chosen, the request for reconsideration of the instant decision should supply the following for Application C:

A. A copy of the decision denying the request for a certificate of correction, and
B. A copy of any request for reconsideration of the decision denying the requested certificate of correction.

If this option is chosen and the request for certificate of correction in Application D is denied prior to petitioner filing a request for reconsideration of the instant decision, the request for reconsideration of the instant decision should supply the following for Application D:

A. A copy of the decision denying the request for a certificate of correction, and
B. A copy of any request for reconsideration of the decision denying the requested certificate of correction.

If this option is chosen and the request for certificate of correction in Application E is denied prior to petitioner filing a request for reconsideration of the instant decision, the request for reconsideration of the instant decision should supply the following for Application E:

A. A copy of the decision denying the request for a certificate of correction, and
B. A copy of any request for reconsideration of the decision denying the requested certificate of correction.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Application of Gary Reinert Sr. :
Application No. 10/896,416 : Decision Granting Petition
Filing Date: July 22, 2004 : Under 37 CFR 1.78(a)(3)
Attorney Docket No. 5433-072222 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 9, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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 application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition

includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 2875 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven 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
10/896,416	12/17/2004	2875	925	5433-072222	10	1

CONFIRMATION NO. 9591

CORRECTED FILING RECEIPT

28289
THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Date Mailed: 02/15/2011

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

Applicant(s)

Gary L. Reinert SR., Baden, PA;

Power of Attorney: The patent practitioners associated with Customer Number 28289

Domestic Priority data as claimed by applicant

This application is a DIV of 10/393,150 03/20/2003 PAT 6,773,136
which is a DIV of 09/796,394 03/01/2001 PAT 6,572,240
which is a CIP of 09/514,089 02/28/2000 PAT 6,196,697
which is a CIP of 09/113,980 07/10/1998 PAT 6,033,083

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: 11/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/896,416**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

STAINLESS STEEL AIRPORT LIGHT CANNISTER APPARATUS AND METHOD

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,732,356	: DECISION ON
Schindzielorz, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/897,126	: of PATENT TERM ADJUSTMENT
Issue Date: June 8, 2010	:
Filed: July 23, 2004	:
Attorney Docket No. 039861-0107	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed August 6, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from eight hundred ninety-seven (897) days to one thousand seventy-eight (1078) days.

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

On June 8, 2010, the instant application matured into U.S. Patent No. 7,732,356 with a patent term adjustment of eight hundred ninety-seven (897) days. Patentees timely filed the instant application for patent term adjustment on August 6, 2010.

A review of Office records reveals that the patent term adjustment was correctly calculated as 897 days. The Office determined a patent term adjustment of 897 days based upon 68 days of "A" delay, plus 1051 days of "B" delay, plus 966 days of "C" delay, minus 110 days of applicant delay and 1078 days of overlap. See 35 USC 154(b)(1)(B)(iii).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____; **DATE**: 3/19/11; **TO SPE OF**: ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 10897235 Patent No.: 7763065

CofC mailroom date: 03/08/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

KTN ☑ **Approved** — **All** changes apply.

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

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

Comments: _____

ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
SPE 3/21/11

3731
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN A. DRAGSETH
Fish & Richardson P.C., P.A.
Suite 3300
60 South Sixth Street
Minneapolis MN 55402

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,824,358 :
Cotter : DECISION ON REQUEST FOR
Issue Date: November 2, 2010 : RECONSIDERATION OF
Application No. 10/897,311 : PATENT TERM ADJUSTMENT
Filed: July 22, 2004 :
Attorney Docket No. 09559-025001 :
Title: HEART PUMP CONNECTOR :

This is a decision on the petition filed on January 3, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred twenty-eight (828) days.

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

The above-identified application matured into U.S. Pat. No. 7,824,358 on November 2, 2010. The patent issued with a patent term adjustment of 540 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of 626 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 914 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See, 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and

issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination).

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.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

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

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

Charlema Grant
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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

JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Andreas Bulan, et al.
Application No. 10/897,430
Filed: July 23, 2004
Attorney Docket No. 22133-00018-US

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2010, to revive the above-identified application.

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 March 16, 2010, and a three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 17, 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) a proper statement of unintentional delay.

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

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/957,805.

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

April M. Wise
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

MAILED
DEC 22 2011
OFFICE OF PETITIONS

In re Application of
David Fu et al.
Application No. 10/897,505
Filed: July 22, 2004
Attorney Docket Number: 56489.830010.US2

ON PETITION

This is a decision on the petition, filed December 8, 2011 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned April 11, 2009 for failure to pay the issue fee in response to the Notice of Allowance mailed on January 9, 2009. Accordingly, the Notice of Abandonment was mailed May 5, 2009.

The issue fee in the amount of $870, publication fee in the amount of $300 and the petition fee in the amount of $930 have been applied.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/897,529	07/23/2004	Lori A. Coulter	60022650-0002	2291

26263 7590 04/02/2012

SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

EXAMINER	
AIRAPETIAN, MILA	
ART UNIT	PAPER NUMBER
3625	
MAIL DATE	DELIVERY MODE
04/02/2012	PAPER

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

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

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Alexandria, VA 22313-1450
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APR - 2 2012

Zhiwei Zou
SNR DENTON US LLP
P.O. Box 061080
Chicago IL 60606-1080

In re Application of: Lori A. COULTER
Appl. No. 10/897,529
Filed: July 23, 2004
For: METHODS AND SYSTEMS FOR SELLING APPAREL

: DECISION ON PETITION
: UNDER 37 C.F.R. § 1.181

This decision is in response to applicant's request filed on September 15, 2011 for removal of finality of Office action mailed June 28, 2011. Such request is being treated as a petition under 37 CFR 1.181 for the Director to invoke supervisory authority.

The petition is DISMISSED as moot.

A review of the file reveals that following a submission of a RCE on July 6, 2010, a final Office action was mailed on June 28, 2011. Applicant filed the instant petition on September 15, 2011 alleging that the finality was improper because the examiner indicated in a prior advisory action dated July 2, 2010 that the amendment filed June 3, 2010 that responded to the previous final Office action would not be entered because it raises new issues that would require further consideration and/or search. Subsequently, the examiner issued a non-final Office action mailed December 1, 2011 which indicates that the finality of the previous Office action (i.e. that mailed June 28, 2011) was therein withdrawn (at page 2). As such, the issue raised in the instant petition is rendered moot. The non-final Office action mailed December 1, 2011 has set a shortened statutory period for reply of three (3) months from the date of that action. The application awaits a reply by applicant to said Office action. Extensions of time may be available under the provisions of 37 CFR 1.136(a).

Subsequent to the filing of the petition, applicant filed a letter "Request for Withdrawal of Petition Request for Removal of Finality of U.S. Office Action" on November 14, 2011. The letter requested the withdrawal of the petition, and is herein recognized. The instant petition, accordingly, is DISMISSED as moot.

Any questions regarding this Decision should be directed to Jeffrey A. Smith at (571) 272-6763.

Greg Vidovich, Director
Technology Center 3600
(571) 272-5350

gv/jas: 03/25/2012
LM

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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In re Patent No. 6984036
Issue Date: January 10,2006
Application No. 10897814
Filed: July 24,2004
Attorney Docket No. 103731.010100

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

This is a decision on the electronic petition, filed October 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 October 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)
6984036	2006-01-10	10897814	2004-07-24	103731.010100

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Barry J. Schindler/	Date (YYYY-MM-DD)	2010-10-05
Name	Barry J. Schindler	Registration Number	32938

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

MAILED
AUG 03 2010
OFFICE OF PETITIONS

In re Patent No. 7,666,417	: DECISION ON REQUEST
Spies, et al.	: FOR
Issue Date: February 23, 2010	: RECONSIDERATION OF
Application No. 10/898,003	: PATENT TERM ADJUSTMENT
Filed: July 23, 2004	: and
Atty Docket No. **FHCC:020US/ 10411212**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred and sixty-six (466) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred and sixty-six (466) days is **GRANTED**.

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

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred and sixty-six (466) 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 : 7,666,417 B2

DATED : Feb. 23, 2010

INVENTOR(S) : Spies 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 (0) days

Delete the phrase "by 0 days" and insert – by 466 days--

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SEP 08 2010

Paper No.

OFFICE OF PETITIONS

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

In re Patent No. 7,599,939	:	DECISION ON REQUEST
Destefano et al.	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 10/898,017	:	PATENT TERM ADJUSTMENT
Filed: July 23, 2004	:	and
Atty Docket No. 21366-0001001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 7, 2009,[1] requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and twenty (820) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred and fifty-two (652) days is **GRANTED to the extent indicated herein.**

Petitioner has indicated that this patent is not subject to a terminal disclaimer.[2]

The time taken up by the notice of appeal is excluded from the period of B-delay. A first notice of appeal was filed on February 6, 2007 and a non-final Office action was subsequently mailed on August 21, 2007. The 197 days of the over three year period consumed by appellate review, beginning on February 6, 2007 (not July 24, 2007)[3] and ending on August 21, 2007, is not

[1] It is noted that December 6, 2009 fell on a Sunday.
[2] Petition, page 5.
[3] See petition, page 3.

included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii). Thus, 197 (not 29)[4] days are excluded.[5]

As such, the patent term adjustment is increased by 652 (340 examination delay plus 806 B delay minus 124 applicant delay minus (197 + 18 = 215) days of exclusion minus 155 overlap) days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred and fifty-two (652) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[4] Id.

[5] It is noted in passing that Patentee has correctly calculated the 18-day period of exclusion that is associated with the filing of the notice of appeal on July 21, 2009, and the subsequent mailing of a notice of allowance on August 7, 2009. See page 3 of this petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,599,939 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Yu 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 682 days

Delete the phrase "by 682 days" and insert – by 652 days--

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,088,101	2006-08-08	10/898,120	2004-07-23	112047.00004

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jack m. cook/	Date (YYYY-MM-DD)	2010-08-16
Name	Jack M. Cook	Registration Number	56098

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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United States Patent and Trademark Office
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In re Patent No. 7088101
Issue Date: August 8,2006
Application No. 10898120
Filed: July 23,2004
Attorney Docket No. 112047.00004

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

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

The petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FREEDMAN & ASSOCIATES
55 MURRAY STREET
SUITE 230
OTTAWA ON K1N 5M3 CA CANADA

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,854,701 :
Issue Date: December 21, 2010 :
Application No. 10/898,208 : DECISION ON PETITION
Filed: July 26, 2004 :
Attorney Docket No. 17-12 US :

This is a decision on the petition under 37 CFR 3.81(b), filed May 9, 2011.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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Alexandria, VA 22313-1450
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GEORGE G. JACKSON
P.O. BOX 3263
WOONSOCKET, RI 02895

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
George Gregory Jackson :
Application No. 10/898,212 : ON PETITION
Filed: November 26, 2004 :
Attorney Docket No. :

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

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** 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 November 20, 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 (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).

The $810 petition fee was previously paid on November 16, 2009. Accordingly, since the $810 petition fee was previously paid, petitioner may request a refund of this fee by writing to Mail Stop 16, Refund Requests. A copy of this decision should accompany petitioner's request.

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.** 10/898,212	**Applicant(s)** JACKSON, GEORGE GREGORY	
	Examiner BENJAMIN BUSS	**Art Unit** 2129	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See 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: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: Claims 1,7, & 10 now appear to contain new limitations which have not been previously searched or considered.

Continuation of 11. does NOT place the application in condition for allowance because:

The claims now require "information about" objects, actions, and events, and "initiating programmed responses and data collection for analysis" which were not required when the claims filed 5/19/2008 were finally rejected on 11/20/2008. This would require futher search and consideration, and therefore these claims are not being entered after final, since prosecution is now closed.

Furthermore, the amendment does not adhere to MPEP §714.II.C.(A)-(C), and the amendment fails to overcome the issues detailed in the Final Rejection mailed 11/20/2008.

The amendment to the specification stipulates amendments to paragraph numbers [0001], [0002], [0002], and [0003] -- but no paragraph numbers are found in the most recent version of the specification filed on 5/19/2008, or any other filed version of the specification for that matter. Furthermore, the statement that the process "is not composed of any law of nature or natureal phenomenon" is not found in the specification as originally filed, and is considered to be new matter, which is not permissible under 35 U.S.C. §112, first paragraph.

Examiner is not sure why there are two different versions of each claim presented in this amendment, one version on page 4 and another on pages 5-8. The versions on page 4 appear to be extraneous explanations for what is reasonably clear from the markup of the versions on pages 5-8. Assuming that is the case, examiner will treat the claims on 5-8 as the claims presented for examination. Examiner is not sure why the text of these claims not appears within quotes, nor what meaning these quotations marks are intended to convey, nor why quotation marks have been added to the claim without being underlined to indicate that they are new in accordance with MPEP §714.II.C.(B).

Examiner acknowledges that applicant has voluntarily *withdrawn* claim 4 from consideration without explanation, and the claim will not be further considered while in withdrawn status. Examiner reminds applicant that each claim must be readable as a single complete sentence (containing exactly one period, which ends the claim). Claims that have periods in the middle of the claim and/or that do not end with a period are improper and unacceptable. Regarding the markup *required* by MPEP §714.II.C.(B), it is very specific, and there is no use of single brackets. The only permissable use of brackets is to use *double* brackets to delete five or fewer consecutive characters, and that is as an alternative to a strikethrough of the text. (To use both to remove the same text is not proper.) In effect, applicant's present amendment leaves adds instances of "[" and "[]" throughout the claims.

Applicant's arguments filed 9/16/2010 have been considered, but are not persuasive. In Re page 9, Appplicant argues that the specification, background, and claims have been amended to overcome all of the objections and rejections. Examiner disagrees. With the exception of the rejection under 35 U.S.C. §102, no further explanation, details, or support is given. This is a conclosory argument, and it is not persuasive.

In Re pages 9-10, Applicant argues that the rejection under 35 U.S.C. §102 is improper because the examiner has relied upon portions of the Sheikh reference other than the claims of the Sheikh reference, and that the claims of Sheikh are different than the claims in the instant invention.

Examiner disagrees. It is exactly proper that the examiner has relied upon the
It is true that the claims and only the claims form the metes and bounds of the instant invention being examined, and that applicants claims are to be given the broadest reasonable interpretation. To properly reject the claims, the Office must show that the prior art meets the claims in accordance with the stipulations of 35 U.S.C. §102 and §103. In this case, the claims have been rejected under 35 U.S.C. §102(e), which stipulates that the invention "was described in ... an application for patent, published ..., by another filed in the United States before the invention by the applicant" was filed. Note that this clearly stipulates that the claimed invention is described in the *whole* of the prior art reference (and *not* specifically in the claims). See MPEP §2123, which states, "The use of patents as reference is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literatrue of the art, relevant for all they contain... A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments." Applicant is encouraged to consult an experienced patent professional.

All pending objections and rejections are properly maintained. All pending claims stand rejected. Therefore, the instant application is not in in condition for allowance.

Examiner notes that 5/19/2008 was the most recent date on which Claims, Specification, Abstract, or Drawings (except for Figures 8-37, which were last updated on 11/26/2004) have been accepted and entered by the Office, and thefore, any future amendments affecting these portions of the application should be with respect to the versions filed on 5/19/2008.

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JUN 27 2011

OFFICE OF PETITIONS

GEORGE G. JACKSON
P.O. BOX 3263
WOONSOCKET, RI 02895

In re Application of :
George Gregory Jackson :
Application No. 10/898,212 : ON PETITION
Filed: November 26, 2004 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1175 extension of time submitted on September 16, 2010 and the $1175 extension of time submitted with this renewed petition on May 24, 2011 was subsequent to the maximum extendable period for reply, petitioner may request a refund of $2350 ($1175 + $1175) by writing to Mail Stop 16, Refund Requests. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to Technology Center AU 2129 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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APR 29 2011

OFFICE OF PETITIONS

RENE A. VAZQUEZ
ALIX, YALE & RISTAS, LLP
750 MAIN STREET
HARTFORD, CT 06103-2721

In re Application of
Noboru Horiguchi, et al.
Application No. 10/898,328
Filed: July 26, 2004
Attorney Docket No.: SEKI-0010

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action mailed October 21, 2008. A Notice of Abandonment was subsequently mailed on May 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3762 for consideration by the Examiner in the normal course of business on the response filed March 10, 2011.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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AUG 30 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Mayers, et al.	:	
Application No. 10/898,585	:	ON REQUEST FOR
Filed: July 23, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 39790-502002US	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 12, 2010. Applicants believe that they should be accorded an additional PTA of 932 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 **six hundred forty-six (646) days** (920 days of PTO delay, reduced by 274 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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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,807,136	:	DECISION ON REQUEST
Mayers et al.	:	FOR RECONSIDERATION OF
Issue Date: October 5, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/898,585	:	
Filed: July 23, 2004	:	
Atty Docket No. 28089-502CIP	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. § 1.705(d)" filed December 2, 2010. Patentees request that the Patent Term Adjustment indicated on the face of the patent be corrected from one thousand four hundred seventy-eight (1,478) days to one thousand five hundred sixty-four (1,564) days.

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

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

On October 5, 2010, the above-identified application matured into U.S. Patent No. 7,807,136. The instant request for reconsideration filed December 2, 2010 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 1478 days. Patentees submit that the Office incorrectly reduced the patent term by 86 days in connection with the drawings submitted with the payment of the issue fee on July 12, 2010. Patentees argue that the drawings were submitted at the express request of the Office, in response to a Notice to File Corrected Application Papers.

Patentees' argument has been considered, but not found persuasive. 37 CFR 1.704(c)(10) provides that the filing of papers after the mailing of the notice of allowance constitutes a failure to engage in reasonable efforts to conclude prosecution (processing or examination). It is undisputed that the drawings were filed after the mailing of the notice of allowance. 37 CFR 1.704(c)(10) does not exempt papers filed at the request of the examiner or other components of the Office. Further, filing of drawings after the mailing of the notice of allowance is not a circumstance that the Director has deemed not to cause substantial interference and delay in the patent issue process. 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*, 1247 OG 111 (June 26, 2001).

Entry of the reduction of 86 days for applicant delay is warranted and will not be removed.

In view thereof, the patent term adjustment indicated on the patent of one thousand four hundred seventy-eight (1,478) days is correct.

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

Telephone inquiries specific to this 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
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P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 10898683

Filed : 23-Jul-2004

Attorney Docket No : USGINZ02800

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 October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 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 USGI Medical, Inc.

Name2

Address 1 1140 Calle Cordillera

Address 2

City San Clemente

State CA

Postal Code 92673

Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10898683
Filing Date	23-Jul-2004
First Named Inventor	Vahid Saadat
Art Unit	3731
Examiner Name	TUAN NGUYEN
Attorney Docket Number	USGINZ02800
Title	Apparatus and methods for achieving prolonged maintenance of gastrointestinal tissue folds

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 40518

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	USGI Medical, Inc.
Address	1140 Calle Cordillera
City	San Clemente
State	CA
Postal Code	92673
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Howard J. Greenwald, P.C.
70 Linden Oaks, Third Floor
Rochester, New York 14625

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Patent of 7,091,148	:	
Issue Date: 15 August 2006	:	DECISION GRANTING PETITION
Application No. 10/898,742	:	UNDER 37 CFR 1.378(c)
Filed: 26 July 2004	:	
Atty. Docket No.: RJT-710	:	

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

The petition is **GRANTED**.

This patent expired on 16 August 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 mailing date of this decision.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/898,857	07/26/2004	Gary A. Watkins	GP-304997	5032

60770 7590 01/07/2011

General Motors Corporation
c/o REISING ETHINGTON P.C.
P.O. BOX 4390
TROY, MI 48099-4390

EXAMINER	
ELAHEE, MD S	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
01/07/2011	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

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MAIL

JAN 06 2010
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

General Motors Corporation
c/o REISING ETHINGTON P.C.
P.O. BOX 4390
TROY MI 48099-4390

In re Application of:
WATKINS, GARY A., et al.
Application Serial No.: 10/898,857
Filed: July 26, 2004
For: **METHOD AND SYSTEM FOR PREDICTIVE INTERACTIVE VOICE RECOGNITION**

DECISION
ON PETITION

This is a decision on the petition filed September 24, 2010 under 37 CFR 1.181 requesting that the objection to the drawings set forth by the examiner be withdrawn.

BACKGROUND

In the Final Office action of May 25, 2010, the examiner maintained the objection to the drawings based on Figure 2 failing to show a legend describing the labels on the figure as described in the specification.

With respect to the drawing objection to Figure 2, petitioner states:

> "37 CFR 1.83(a) does not require use of a legend to describe labels on a figure. Rather, 37 CFR 1.83(a) states that a drawing must show every feature of the invention specified in the claims. A legend is not a structural or other feature of the claims, but is a label, and therefore is not required as a part of showing every claimed feature. 37 CFR 1.83(a) also mentions other disclosed features that should be illustrated in the drawing, but states that they should be provided in the form of a symbol or a labeled rectangular box. And, in fact, Figure 2 includes conventional and non-conventional components in standard block diagram form labeled with reference numerals that are identified and used in the specification. Thus, it meets the requirements of 37 CFR 1.83(a) and the Examiner has not pointed to ~ controlling authority that states that a reference numeral legend is required on block diagrams."

REGULATIONS AND PRACTICE

35 U.S.C. 113. Drawings.

> The applicant shall furnish a drawing where necessary for the understanding of the subject matter to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Commissioner may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

37 CFR 1.81. Drawings required in patent application.

(a) The applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented; this drawing, or a high quality copy thereof, must be filed with the application. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.

(b) Drawings may include illustrations which facilitate an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views).

(c) Whenever the nature of the subject matter sought to be patented admits of illustration by a drawing without its being necessary for the understanding of the subject matter and the applicant has not furnished such a drawing, the examiner will require its submission within a time period of not less than two months from the date of the sending of a notice thereof.

(d) Drawings submitted after the filing date of the application may not be used to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

37 CFR 1.83. Content of drawing.

(a) **> The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.<

(b) When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

(c) Where the drawings in a nonprovisional application do not comply with the requirements of paragraphs (a) and (b) of this section, the examiner shall require such additional illustration within a time period of not less than two months from the date of the sending of a notice thereof. Such corrections are subject to the requirements of § 1.81(d).

OPINION

A careful review of the specification, claims, and drawings indicates that Figure 2 shows a system where some of the elements shown are readily recognizable to one of ordinary skill in the art (namely vehicle, wireless tower, network cloud) and other elements are identified as rectangular boxes "labeled" with numbers which are not so readily recognized unless one goes to the specification for a more fuller description of the figure.

In accordance with 35 USC 113, "*The applicant shall furnish a drawing where necessary for the understanding of the subject matter to be patented.*" Also in accordance with 37 CFR 1.81(a) "*The applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented; this drawing, or a high quality copy thereof, must be filed with the application.*" And 37 CFR 1.181(b) "*Drawings may include illustrations which facilitate an understanding of the invention (for example, flow*

sheets in cases of processes, and diagrammatic views)." Upon review of Figure 2, one of ordinary skill in the art can readily recognize a system that includes a vehicle, wireless tower, and network clouds. However, other elements that are in the form of rectangular boxes cannot be easily recognized without referring to the specification for a more detailed discussion of the figure. Thus a question is raised whether figure 2 as furnished does indeed facilitate in the understanding of the subject matter sought to be patented. 37 CFR 1.83(a) states "*The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).*" Clearly the rectangular boxes shown in Figure 2 are used to depict conventional features disclosed in the description and claims. The question at hand is whether the rectangular boxes are in the form of a labeled representation (e.g. labeled rectangular boxes). Ideally a labeled representation that would clearly facilitate in the understanding of the invention would be labels such as processor, GPS, speakers, memory, etc. However, since petitioner insists label representations can arguably be in the form of numbers which are defined in the specification, and there is no further legal basis presented that further defines what is considered a "labeled representation", the objection to figure 2 by the examiner is hereby withdrawn.

Accordingly, the Petition is **Granted**.

The record shows a Notice of Appeal has been filed on September 27, 2010. The application file will be forwarded to the Tech Center to await the filing of the next action by applicant.

John L. Leguyader, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMIR A. MANSOURI
P.O. BOX 491956
LOS ANGELES CA 90049

MAILED
DEC 15 2011
OFFICE OF PETITIONS

Patent No. 7,131,785	:	
Application No. 10/898,915	:	
Filed: July 26, 2004	:	ON PETITION
Issued: November 7, 2006	:	
Attorney Docket No. AM-1-JS	:	

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

The petition is **GRANTED**.

The patent issued November 7, 2006. The last day of the grace period for paying the 3.5-year maintenance fee was November 7, 2010. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/17/2011

TO SPE OF : ART UNIT 2894

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/898965 Patent No.: 7777293 B2

CofC mailroom date: 2/9/2011

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

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: Insert --JP2-140958-- is approved.

Change "US8,492,221" to --US6,492,221-- is denied since US8,492,221 is not on the U.S. patent 7,777,293.

However, US6,492,221 is submitted by applicant in IDS filed 12/22/05 and should be inserted in Item "(56) References Cited", under "US PATENT DOCUMENTS"

/Kimberly Nguyen/ — **SPE**

2894 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. **MAILED**

APR 26 2011

OFFICE OF PETITIONS

K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

In re Patent No. 7,871,324	: DECISION ON REQUEST
Joseph E. Kaminkow	: FOR
Issue Date: 01/18/2011	: RECONSIDERATION OF
Application No. 10/899,165	: PATENT TERM ADJUSTMENT
Filed: 07/26/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
3718611-02361	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 14, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred forty-four (1244) 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 forty-four (1244) days is **GRANTED**.

Patentee asserts that the reduction of 120 days for applicant delay in connection with the filing of an amendment or other paper after a notice of allowance has been mailed or given pursuant to 37 CFR 1.704(c)(10) is not warranted. Specifically patentee asserts that the paper filed on September 3, 2010 was a letter regarding the patent term adjustment, and should not be considered a failure to engage in reasonable efforts to conclude processing or examination of the application.

Patentee's argument is persuasive. A review of the record reveals that the letter filed on September 3, 2010 requests review of the patent term adjustment. A letter regarding the patent term adjustment calculation is not among the types of papers construed as a failure to engage pursuant to 37 CFR 1.704(c)(10). Accordingly, the 120 day reduction for applicant delay is not warranted and will be removed.

In view thereof, the patent term adjustment indicated on the patent is revised to 1224 days (957 days of Office delay and 544 days of three years delay less 253 overlapping days less four (4) (124 – 120) days of applicant delay).

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred forty-four (1244)** 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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,871,324 B2

DATED : **Jan. 18, 2011** **DRAFT**

INVENTOR(S) : Kaminkow

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 1124 days.

Delete the phrase "by 1124 days" and insert – by 1244 days--

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P.O. Box 1450
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FEB 27 2012

OFFICE OF PETITIONS

POLLACK, P.C.
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK NY 10017

In re Application of	:	
Stefano Pedemonte	:	
Application No. 10/899,198	:	DECISION ON PETITION
Filed: July 26, 2004	:	
Attorney Docket No. 1014.1036	:	

This is a decision on the petition under 37 CFR 1.181 (no fee) filed December 12, 2011, which is being treated as an alternative to a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

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

The application became abandoned for failure reply in a timely manner in reply to the Office communication mailed on April 22, 2010, which set a period for reply of one (1) month or thirty (30) days. Accordingly, the application became abandoned on May 23, 2010. A Notice of Abandonment was mailed on June 2, 2010.

Petitioner states that a timely reply was received in the form of a supplemental amendment on February 20, 2009 upon the filing of an RCE on April 6, 2009. It appears that the applicant's intention was to have the Rule 312 amendment of February 20, 2009 entered as part of the RCE. As such, the amendment will be entered as part of the RCE submission filed April 6, 2009.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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

The petition under 37 CFR 1.181 has been granted, therefore this petition is not necessary.

The petition fee of $930 will be refunded to petitioner's credit card account.

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

Accordingly, this application is being referred to the Office of Data Management for processing.

/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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George L. Greenfield
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

MAILED

MAY 11 2011

OFFICE OF PETITIONS

In re Application of :
Michael W. Forrest, et. al. :
Application No. 10/899,536 : DECISION ON PETITION
Filed: July 26, 2004 : TO WITHDRAW FROM
Attorney Docket No. E0392.70000US01 : 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 April 20, 2011.

The request is **APPROVED**.

The request was signed by George L. Greenfield on behalf of himself and all attorneys/agents associated with Customer Number 23628. Therefore, George L. Greenfield and all the attorneys/agents associated with Customer Number 23628 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an Office action mailed April 7, 2011, that requires a reply from the applicant.

All future communications from the Office will be directed to the address listed below until otherwise properly 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: Michael W. Forrest
Evergreen Partnering Group, Inc.
34 Westward Circle
North Reading, MA 01864

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/899,536	07/26/2004	Michael W. Forrest	E0392.70000US01

CONFIRMATION NO. 6326

George L. Greenfield
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

POWER OF ATTORNEY NOTICE

OC000000047605974

Date Mailed: 05/11/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/20/2011.

- 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.

/amsmith/

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

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JUL 29 2011
OFFICE OF PETITIONS

CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON TX 77253-3267

In re Patent No. 7,444,362
Issued: October 28, 2008
Application No. 10/899,558
Filed: July 27, 2004
Atty. Dkt. No.: 1391-51500

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

This is a decision on the "PETITION FOR CERTIFICATE OF CORRECTION," filed March 11, 2009. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The above-identified application matured into U.S. Patent No. 7,444,362 on October 28, 2008. The instant request for reconsideration of patent term adjustment was filed March 11, 2009. The patent issued with a PTA of 468 days. Patentees argue that the patent is entitled to an overall patent term adjustment of 927 days.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) must be filed with TWO MONTHS of the date of issuance of the patent. As the instant request for reconsideration of the patent term adjustment was submitted more than two months after the date of issuance of the patent, the instant request for reconsideration of the patent term adjustment is deemed untimely. Accordingly, no adjustment to the patent term will be made.

In view thereof, the application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED AS UNTIMELY**.

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 required patent term adjustment application fee of $200.00 has been charged to the authorized deposit account. See, 37 CFR 1.18(f).

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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MCCARTER & ENGLISH, LLP / SANOFI-AVENTIS
265 FRANKLIN STREET
BOSTON, MA 02110

MAILED
MAR 04 2011
PCT LEGAL ADMINISTRATION

In re Application of :
LAUX et al :
Application No.: 10/899,618 :
Filing Date: July 27, 2004 :
Attorney Docket No.: 119363-00201 :

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND 1.182

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 24, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition and a decision on the petition for expedited review under 37 CFR 1.182.

The petitions are **GRANTED**.

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

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

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional 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 application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an acceptable statement of unintentional delay.[1] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1623 for appropriate action on the amendment filed February 24, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed international application.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

[1] The statement contained in the petition differs slightly from the statement required by 37 CFR 1.78(a)(3)(iii) and is hereby construed as 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. If this interpretation is incorrect, petitioner is required to immediately notify the Office.

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Paper No.

MCCARTER & ENGLISH, LLP / SANOFI-AVENTIS
265 FRANKLIN STREET
BOSTON MA 02110

MAILED

APR 27 2011

OFFICE OF PETITIONS

In re Application of :
Laux et al. :
Application Number: 10/899,618 : ON APPLICATION FOR
Filing Date: July 27, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket Number: :
119363-00201 :

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 on March 14, 2011. Applicants request that the determination of patent term adjustment be increased from 254 days to 709 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the

request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

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

On December 14, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 254 days (591 days of PTO delay and 337 days of applicant delay).

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

The instant application for patent term adjustment was timely filed.[2]

Applicants state that an additional period of reduction of nine (9) days for applicant delay should be entered pursuant to 37 CFR 1.704(c)(10) in connection with the filing of an amendment or other paper (in this case an amendment under 37 CFR 1.312 and a petition under 37 CFR 1.78(a)(3) on February 24, 2011, after the mailing of the notice of allowance. On March 4, 2011, a decision granting the petition was mailed.

37 CFR 1.705(b) states that any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment.

37 CFR 1.705(d) states that if there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.

As the asserted period of delay occurred after the mailing of the notice of allowance, it must be raised on application under 37 CFR 1.705(d). As stated previously, 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 the Office only considers the patent term adjustment as of the mailing of the notice of allowance on application under 37 CFR 1.705(b), the Office cannot calculate the period of delay under § 1.704(c)(10) at this time.

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). Applicant is also reminded of the Office's policy as set forth in *Treatment of Letters Stating That the USPTO's Patent Term*

[2] PALM Records indicate that the issue fee was paid on March 14, 2011.

Adjustment Determination is Greater Than What the Applicant or Patentee Believes Is Appropriate, 1357 O.G. 262 (Aug. 24, 2010), 75 Fed. Reg. 42079 (Jul. 20, 2010).

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

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) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 7093746
Issue Date: August 22,2006
Application No. 10899679
Filed: July 26,2004
Attorney Docket No. 17564-167

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

This is a decision on the electronic petition, filed February 25,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 25,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7093746	2006-08-22	10899679	2004-07-26	17564-167

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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

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	/Bawa Singh/	Date (YYYY-MM-DD)	2011-02-23
Name	Bawa Singh		
Enter Reel and Frame Number		Remove	
Reel Number	013268	Frame Number	0878
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.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : 7,511,031 B2

Issue Date : March 31, 2009

Inventor : James Chen

Docket No. : 600057.446D1

Date : April 27, 2010

Mail Stop Certificate of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents:

A certificate of correction is respectfully requested in the above-identified patent. The following errors were made:

Items (62) and (60) Related U.S. Application Data, incorrectly reads, "(62) Division of application No. 09/905,777 filed on Jul. 13, 2001 (60) Provisional application No. 60/116,235, filed on Jan. 15, 1999." As set forth in the Corrected Filing Receipt mailed from the United States Patent & Trademark Office on July 8, 2005, the Related U.S. Application Data should read, --(62) Division of application No. 09/905,777 filed on Jul. 13, 2001, which is a Continuation of PCT/US00/00852 filed on Jan. 14, 2000 (60) Provisional application No. 60/116,235, filed on Jan. 15, 1999--.

Item (56) References Cited, Foreign Patent Document, --WO 00/61584 10/2000-- is missing from the face of the patent. This reference was initially submitted in the Information Disclosure Statement filed with the United States Patent & Trademark Office on September 23, 2004 and acknowledged by the Examiner with the Office Action mailed from the Patent Office on January 18, 2007.

In the claims, claim 25, column 16, line 24, the recitation, "The of claim 18, wherein at least one of the light sources" is incorrect. Please note, due to claim canceling and renumbering, claim 25 in the issued patent was claim 37 during prosecution. As set forth in the Amendment filed with the United States Patent & Trademark Office on August 4, 2008, claim 37 should read --The patch of claim 18, wherein at least one of the light sources--. Thus, issued claim 25 should read --The patch of claim 18, wherein at least one of the light sources--.

Attached is the certificate of correction, which indicates the corrections to be made by reference to the item, column and line numbers in the printed patent. Because the errors were made by the Patent Office, no fee is necessary. However if they are determined to be our errors, the Director is hereby authorized to charge payment of any fees associated with this communication to Deposit Account No. 19-1090.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC

Karl L. Klassen
Registration No. 54,224

KLK:djs
Enclosure:
Certificate of Correction

SEED Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

1589765_1.DOCX

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,511,031 B2
DATED : March 31, 2009
INVENTOR : James Chen

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

Item (62) & (60)

"(62) Division of application No. 09/905,777 filed on Jul. 13, 2001 (60) Provisional application No. 60/116,235, filed on Jan. 15, 1999" should read --(62) Division of application No. 09/905,777 filed on Jul. 13, 2001, which is a Continuation of PCT/US00/00852 filed on Jan. 14, 2000 (60) Provisional application No. 60/116,235, filed on Jan. 15, 1999--.

Item (56)

--WO 00/61584 10/2000-- should be added to face of patent.

Column 16

Line 24, "The of claim 18, wherein at least one of the light sources" should read --The patch of claim 18, wherein at least one of the light sources--.

MAILING ADDRESS OF SENDER:
Karl L. Klassen
Seed Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104

PATENT NO. 7,511,031 B2

No. of additional copies 0

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: Assistant Commissioner for Patents, Washington, DC 20231.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101110

DATE : November 10, 2010

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7,511,031

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Misook Yu/
Supervisory Patent Examiner.Art Unit 1643

UNITED STATES 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: 04/28/11

Patent No. : 7737205 B2
Ser. No. : 10/900,001
Inventor(s) : **James , et al.**
Issued : **June 15, 2010**
Title : Thermoplastic vulcanizates and process to prepare them
Docket No. : **DW0088USNA**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:

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

By fax:

(571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

The Dow Chemical Company
P.O. BOX 1967
2040 Dow Center
Midland MI 48641

LMN

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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JUN 24 2011

OFFICE OF PETITIONS

The Dow Chemical Company
P.O. BOX 1967
2040 Dow Center
Midland, MI 48641

In re Patent of James et al. :
Patent No. 7,737,205 :
Issue Date: June 15, 2010 : Letter
Application No. 10/900,001 :
Filing Date: July 27, 2004 :
Attorney Docket No. DW0088 US :

This is a letter responding to the request filed May 19, 2011, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the patent.

The request under 37 CFR 3.81 is **GRANTED**.

Pursuant to 37 CFR 3.81(b), a request to have a patent corrected to add, or change, an assignee's name must:

1. State an assignment to the assignee was recorded before issuance of the patent,
2. Include a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) ($100), and
3. Include the fee set forth in 37 CFR 1.17(i) ($130).

Patentees have met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will be informed of the instant decision and will issue the requested certificate of correction in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JAN 10 2011

OFFICE OF PETITIONS

Kendall Sheets
CPA Global
12th Floor
2318 Mill Road
Alexandria, VA 22314

In re Patent of Constantz et al. :
Patent No. 7,175,858 :
Issue Date: February 13, 2007 : Letter
Application No. 10/900,029 :
Filing Date: July 26, 2004 :

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 15, 2010.

The request states $245 was previously submitted for 3.5 year maintenance fee. The request also paid the fee due for a large entity, which the request asserts is $490.

The small-entity fee 3.5 year maintenance has been $490 since October 1, 2008, and Office records indicate the $490 fee was charged to Deposit Account No. 50-4623 on July 22, 2010. The actual deficiency due is $490 ($980 - $490). Pursuant to the general fee authorization in the request, the Office charged $490 to Deposit Account No. 50-4623 on September 16, 2010.

The Office hereby accepts the submission of the $490 deficiency.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 29 2010

OFFICE OF PETITIONS

KF ROSS PC
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX, NY 10471-0900

In re Application of	:	
Mayer et al.	:	
Application No. 10/900,064	:	DECISION ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No. 23006	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of May 26, 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 July 27, 2010. *See* MPEP 1213.02.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3636 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/900,103	07/27/2004	Frank U. Axe	PRD2089NP	8147

27777 7590 10/04/2010

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER	
THOMAS, TIMOTHY P	

ART UNIT	PAPER NUMBER
1628	

NOTIFICATION DATE	DELIVERY MODE
10/04/2010	ELECTRONIC

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

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

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

jnjuspatent@corus.jnj.com
lhowd@its.jnj.com
gsanche@its.jnj.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 0 4 2010

PHILIPS S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of: AXE et al	:	
Serial No: 10/900,103	:	DECISION
Filed: July 27, 2004	:	ON
Attorney Docket No: PRD2089NP	:	PETITION
Title: LTA4H Modulators	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on July 26, 2010. Petition is treated under 37 CFR 1.144.

BACKGROUND

On July 27, 2004 instant application was filed. On June 24, 2008, a restriction requirement was issued.

In the restriction requirement of March 12, 2008, the examiner presented the following groups:

Group I. Claims 1-45, drawn to method of treatment or prevention of LTA4H-mediated conditions
Group II. Claims 46-90, drawn to a method for treating, preventing or inhibiting inflammation
Group III. Claims 9-135, drawn to method for inhibiting LTA4H enzyme activity
Group IV. Claims 136-166, drawn to pharmaceutical composition comprising at least one compound of formula I, II or III
Group V. Claims 167-184, drawn to a compound of formula II
Group VI. Claims 185-196, drawn to a compound of formula III

Examiner indicated claims 1-166 are generic and further required an election of species, applicant is required to elect formula I, II or III.

On December 16, 2008, a response to restriction was filed. Applicant elected Group V with traverse. Applicant argues that the distinction between products and processed in restriction practice must be established based on the inventions as claimed; that the claims do not recite human recombinant LTA4H and the method claims as recited are limited to use the products listed in product Group V.

On August 3, 2009, a FAOM was issued. Examiner considered the traversal and rejoined Groups IV, V and VI for examination.

On March 18, 2010, RCE was filed.

On May 5, 2010, a non-final action was mailed. The Office action summarizes what was previously done, see the paragraph bridges pages 2-3.

On July 26, 2010, present petition was filed.

DISCUSSION

Prosecution and petition have been carefully reviewed.

Please note Office action mailed August 3, 2010, on page 4, 2nd paragraph states: "Therefore, Groups IV and VI are rejoined with Group V, all of claims 136-196 are subject to the species elected." (emphasis added) On page 5, examiner states: "It is noted that claims 136-138, 146-147, 153, 155-156, 164-165, 185-186 and 194-195 from rejoined Groups IV and VI also read on the elected compound, and are examined with claims 167-176-177 and 183.". This indicates Groups IV and VI were examined to the extend they read on the elected species. Please also see the last full paragraph on page 5, examiner states: "Claims 139-145, 148-152, 154, 157-163, 166, 169-175, 178-182, 184, 187-193 and 196 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

The Office action mailed on May 5, 2010, examiner summarizes the restriction previously done, please see the paragraph bridges pages 2-3. Examiner states: "Applicant argues that all claims of restriction groups IV, V and VI should be under examination; i.e., all of claims 136-196. This is not persuasive; rejoinder of Groups IV and VI was made, subject to the species election. Claims 139-145, 148-152, 154, 157-163, 166, 169-175, 178-182, 184, 187-193 and 196 were and remain withdrawn, as drawn to a non-elected species; these claims are not under examination, since no generic claim is currently allowable." The statement clearly states that examiner rejoined Groups IV and VI at the time of FAOM (dated August 3, 2009), based on the persuasive argument made with respect to the groupings. But these groups were still subject to the species election, in which an elected species was made.

The record is clear that claims 139-145, 148-152, 154, 157-163, 166, 169-175, 178-182, 184, 187-193 and 196 do not read on the elected species and thus those claims were withdrawn.

DECISION

The petition is **Denied** for the reasons set forth above.

The application is being forwarded to examiner for further action after mailing of this decision. Claims 136, 138, 146, 147, 153, 155, 156, 164, 165, 167, 68, 176, 177, 183, 185, 186, 194 and 195 read on the elected species and are under examination.

Should there be any questions about this decision, please contact Supervisory Patent examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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P.O. Box 1450
Alexandria, VA 22313-1450
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VERNON JOHN DUECK
937 FRESNO PLACE
COQUITLAM V3J 6G5 CA CANADA

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of :
Vernon John DUECK :
Application No. 10/900,188 : DECISION ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed, November 24, 2009, which set a reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) 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 the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3633 for appropriate action by the Examiner in the normal course of business.

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY HOAG, LLP
PATENT GROUP,
WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

MAILED
AUG 05 2011
OFFICE OF PETITIONS

In re Application of :
Odidi, et al. :
Application No. 10/900,415 : DECISION
Filed: 28 July, 2004 :
Attorney Docket No. ITA-001.01 ::

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

NOTE:

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

A courtesy copy of this decision will be mailed to Petitioner.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice must be submitted—and included therewith must be a proper Revocation/Power of Attorney with the appropriate certificate pursuant to 37 C.F.R. §3.73(b).

The application appears to have gone abandoned in August 2005.

The Office mailed the Notice of Abandonment on 4 May, 2007.

Petitioner appears to have ignored that abandoned status upon his attempt to file a Revocation/Power of Attorney on 18 May, 2007—which was never entered because:

- the application was abandoned, and
- Petitioner took no action at that time to return the application to pending status.

Petitioner protested that he filed a Status Inquiry, to which the Office did not respond, and—indeed—on 18 May, 2007, Petitioner also filed a Status inquiry, and, notably, the record indicates that was the only Status Inquiry filed by Petitioner across more than four (4) years.

As to the petition pursuant to 37 C.F.R. §1.137(a), at this writing Petitioner's showing herein—in essence that Petitioner submitted a Revocation/Power of Attorney and Status Inquiry on 18 May, 2007, to which the Office did not reply—does not satisfy the requirements envisioned in *Pratt*.[1]

Thus, the facts presented as to unavoidable delay do not satisfy the requirements under the Rule.

Petitioner's alternative is to file a petition averring unintentional delay pursuant to the regulations at 37 C.F.R. §1.137(b), and Petitioner **must** present both narrative and documentary support of such an averment.

Petitioner is cautioned that any delay in the submission of petition pursuant to 37 C.F.R. §1.137(b) may be considered delay that is other than unintentional.

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

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

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

As to Allegation of
Unavoidable Delay

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

Petitioner does not appear to have satisfied—and appears unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

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

[1] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

BACKGROUND

Applicant(s) failed to reply timely and properly to the Notice to File Missing Parts (fees, surcharge) mailed on 13 June, 2005, with reply due absent extension of time on or before 13 August, 2005.

The application went abandoned by operation of law after midnight 13 August, 2005.

An initial Power of Attorney as to the correspondence address above was entered following the 30 January, 2006, submission.

The Office mailed the Notice of Abandonment on 4 May, 2007.

On 18 May, 2007, Petitioner submitted a Revocation/Power of Attorney on 18 May, 2007—which was never entered because:

- the application was abandoned, and
- Petitioner took no action at that time to return the application to pending status.

Petitioner filed a single Status Inquiry—also on 18 May, 2007—and the record reveals that, in the intervening four years, Petitioner made the following submissions:

- A preliminary amendment on 30 November, 2007;
- An information disclosure statement (IDS) on 2 January, 2008; and
- An IDS on 13 June, 2011.

The record does not reveal any other Status Inquiry filed by Petitioner in the fifty- (50-) plus months between 18 May, 2007 and Petitioner's filing of the instant petition.

On 26 July, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(a). Petitioner pointed to a reply (fees/ surcharge). Petitioner averred unavoidable delay as follows:

> Present Counsel took over prosecution of this Application on April 24, 2007. At that time, a Power of Attorney was filed in this matter associating this case with Customer Number 24504. In October of 2007, Counsel's firm moved. The USPTO was notified to change all mailing associated with Customer Number 24504 to our new address. On May 4, 2007 the USPTO mailed a Notice of Abandonment for Failure to Reply to a Notice of Missing Parts to Foley Hoag, previous counsel in this matter. On May 15, 2007, the Undersigned filed a Status Inquiry in this matter. The USPTO never responded to the Status Inquiry. On November 30, 2007, Undersigned filed a Preliminary Amendment in this matter and paid the $180.00 required for the newly added claims therein. This

> document supplied the USPTO with counsel's new address. On January 2, 2008, the Undersigned filed an Information Disclosure Statement in this matter, (sic) this document also supplied the USPTO with our new address. Counsel did not realize the USPTO had failed to associate this matter with our Customer Number and was mailing Office actions to either previous counsel or the inventors (sic) old address. Counsel was unaware this matter had gone abandoned until our Foreign Associate contacted us with a status request. Upon reviewing Private P[AIR], Counsel became aware of this matter's abandonment for previous counsel's failure to reply to a Notice of Missing Parts that was mailed to the inventor's address.
>
> The undersigned enclosed herewith a Response to Missing Parts to the Notice mailed on June 13, 2005, and authorizes the USPTO to charge our deposit account (20-0778) for the outstanding fee of $1,525.00.

(The Office attempted to contact Petitioner in this matter, however, as of this writing no response to that attempt was received.)

The totality of Petitioner's submission on 13 June, 2011, consisted of:

- The three- (3-) page petition form;
- A one- (1-) page "Response to Missing Parts Notice" authorizing fees due;
- A two- (2-) page Electronic Fee Transmittal form.

The Office EFS generated a two- (2-) page Electronic Acknowledgment Receipt as to the six (6) pages submitted.

Moreover, with regard to the history set forth in Petitioner's statement (above), there were no documents submitted in support thereof, and, where the statement differed from the actual record history previously set forth, the record provided absolutely no support for Petitioner's averments.

Notably:

- The application was in abandoned status more than twenty (20) months before Petitioner "took over prosecution of this Application on April 24, 2007"; and
- The record provided absolutely no support and Petitioner submitted no support for Petitioner's further statement that "[a]t that time, a Power of Attorney was filed in this matter associating this case with Customer Number 24504."

(With regard to Petitioner's averment of reviewing the matter online in Private PAIR, it is noted that as of this writing the correspondence address for the instant application remains associated with Customer Number 25181—and not Petitioner's Customer Number, averred to be 24504.)

Petitioner, as one registered to practice before the Office, is well aware that:

- The simple placement of contact information at the end of a paper is not a proper of Notice to the office of a change of address. (See: MPEP §711.03(c).[2]); and

- The purpose of a Notice of Change of Address properly filed in an application during the pendency of the application in active status or upon its revival thereto is to provide such Notice.

As noted above, Petitioner made no showing of unavoidable delay and appears incapable of doing so. Thus, Petitioner should submit a petition with fee and all proper replies pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b). Petitioner is cautioned that any delay in the submission of petition pursuant to 37 C.F.R. §1.137(b) may be considered delay that is other than unintentional.

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

Thus, it is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

...Unavoidable Delay

---

[2] As set forth in the guidance in the Commentary at MPEP §711.03(c):

***

See *In re Egbers*, 6 USPQ2d 1869, 1872 (Comm'r Pat. 1988), *rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg*, 10 USPQ2d 1787 (D.D.C. 1988); *In re Katrapat*, 6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP§601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

(A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;

(B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or

(C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

***

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

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

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

In re Mattullath, *38 App. D.C. 497, 514-15 (1912)(quoting* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963),* aff'd, *143 USPQ 172 (D.C. Cir. 1963);* Ex parte Henrich, *1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."* Smith v. Mossinghoff, *671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."* Haines v. Quigg, *673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of*

correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of

the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).

An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(a)] was unavoidable" or even make an appropriate statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(b)] was unintentional."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, and any terminal disclaimer required by 37 C.F.R. §1.137(c). Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

***

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice 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.[3]

STATUTES, REGULATIONS

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

---

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

[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).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c and http://www.uspto.gov/web/forms/sb0064.pdf)

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

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC
CHRISTOPHER B. LINDER
THOMAS KAYDEN
HORSTEMEYER & RISLEY LLP
800 GALLERIA PARKWAY/SUITE. 1500
ATLANTA, GA 30339

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY HOAG, LLP
PATENT GROUP,
WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

MAILED
SEP 13 2011
OFFICE OF PETITIONS

In re Application of :
Odidi, et al. :
Application No. 10/900,415 : DECISION
Filed: 28 July, 2004 :
Attorney Docket No. ITA-001.01 ::

This is a decision on the petition filed on 16 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b) .

NOTE:

Once again, the address on the petition is other than that of record.

Once again a courtesy copy of this decision will be mailed to Petitioner.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice must be submitted—and included therewith must be a proper Revocation/Power of Attorney with the appropriate certificate pursuant to 37 C.F.R. §3.73(b).

The record (including the petition filed on 26 July, 2011, and again on 16 August, 2011) does not necessitate a finding that the delay between midnight 13 August, 2005 (the date of abandonment), and 16 August, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Christopher B. Linder (Reg. No. 47,751) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

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

As to Allegation of
Unintentional Delay

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

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

BACKGROUND

Applicant(s) failed to reply timely and properly to the Notice to File Missing Parts (fees, surcharge) mailed on 13 June, 2005, with reply due absent extension of time on or before 13 August, 2005.

The application went abandoned by operation of law after midnight 13 August, 2005.

An initial Power of Attorney as to the correspondence address above was entered following the 30 January, 2006, submission.

The Office mailed the Notice of Abandonment on 4 May, 2007.

On 18 May, 2007, Petitioner submitted a Revocation/Power of Attorney on 18 May, 2007—which was never entered because: the application was abandoned, and Petitioner took no action at that time to return the application to pending status.

Petitioner filed a single Status Inquiry—also on 18 May, 2007—and the record reveals that, in the intervening four years, Petitioner made the following submissions: a preliminary amendment on 30 November, 2007; an information disclosure statement (IDS) on 2 January, 2008; and an IDS on 13 June, 2011.[2] The record did not reveal any other Status Inquiry filed by Petitioner in the fifty- (50-) plus months between 18 May, 2007 and Petitioner's filing of the instant petition.

---

[2] The totality of Petitioner's submission on 13 June, 2011, consisted of:

- The three- (3-) page petition form;
- A one- (1-) page "Response to Missing Parts Notice" authorizing fees due;
- A two- (2-) page Electronic Fee Transmittal form.

The Office EFS generated a two- (2-) page Electronic Acknowledgment Receipt as to the six (6) pages submitted.

On 26 July, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(a). Petitioner pointed to a reply (fees/ surcharge).[3] With regard to the history set forth in Petitioner's statement, there were no documents submitted in support thereof, and, where the statement differed from the actual record history previously set forth, the record provided absolutely no support for Petitioner's averments. Notably: the application was in abandoned status more than twenty (20) months before Petitioner "took over prosecution of this Application on April 24, 2007"; and the record provided absolutely no support and Petitioner submitted no support for Petitioner's further statement that "[a]t that time, a Power of Attorney was filed in this matter associating this case with Customer Number 24504." (With regard to Petitioner's averment of reviewing the matter online in Private PAIR, it is noted that the correspondence address for the instant application remained associated with Customer Number 25181—and not Petitioner's Customer Number, averred to be 24504.)[4] The Office attempted to contact Petitioner in this matter, however, there was no response before the petition was dismissed on 5 August, 2011.

On 16 August, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), pointed to the previously filed reply in the form of authorization of fees due, and made the statement of unintentional delay.

As noted above, the record (including the petition filed on 26 July, 2011, and again on 16 August, 2011) does not necessitate a finding that the delay between midnight 13 August, 2005 (the date of abandonment), and 16 August, 2011 (the date of the filing of grantable petition), was not unintentional.

---

[3] Petitioner averred unavoidable delay as follows:

> Present Counsel took over prosecution of this Application on April 24, 2007. At that time, a Power of Attorney was filed in this matter associating this case with Customer Number 24504. In October of 2007, Counsel's firm moved. The USPTO was notified to change all mailing associated with Customer Number 24504 to our new address. On May 4, 2007 the USPTO mailed a Notice of Abandonment for Failure to Reply to a Notice of Missing Parts to Foley Hoag, previous counsel in this matter. On May 15, 2007, the Undersigned filed a Status Inquiry in this matter. The USPTO never responded to the Status Inquiry. On November 30, 2007, Undersigned filed a Preliminary Amendment in this matter and paid the $180.00 required for the newly added claims therein. This document supplied the USPTO with counsel's new address. On January 2, 2008, the Undersigned filed an Information Disclosure Statement in this matter, (sic) this document also supplied the USPTO with our new address. Counsel did not realize the USPTO had failed to associate this matter with our Customer Number and was mailing Office actions to either previous counsel or the inventors (sic) old address. Counsel was unaware this matter had gone abandoned until our Foreign Associate contacted us with a status request. Upon reviewing Private P[AIR], Counsel became aware of this matter's abandonment for previous counsel's failure to reply to a Notice of Missing Parts that was mailed to the inventor's address.
>
> The undersigned enclosed herewith a Response to Missing Parts to the Notice mailed on June 13, 2005, and authorizes the USPTO to charge our deposit account (20-0778) for the outstanding fee of $1,525.00.

[4] Petitioner, as one registered to practice before the Office, is well aware that:

- The simple placement of contact information at the end of a paper is not a proper of Notice to the office of a change of address. (See: MPEP §711.03(c).[4]); and
- The purpose of a Notice of Change of Address properly filed in an application during the pendency of the application in active status or upon its revival thereto is to provide such Notice.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Christopher B. Linder (Reg. No. 47,751) when accepting Petitioners' representation that the delay in filing the response was unintentional.[5]

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[6]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[7]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[8]))

As to Allegations of Unintentional Delay

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

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

[6] 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).

[7] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

CONCLUSION

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

The instant application is released to the Office of Patent Application Processing (OPAP) 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 OPAP in response to this decision. It is noted that all inquiries with regard to status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC
CHRISTOPHER B. LINDER
THOMAS KAYDEN
HORSTEMEYER & RISLEY LLP
800 GALLERIA PARKWAY/SUITE. 1500
ATLANTA, GA 30339

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

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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.

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of :
Walker et al. : DECISION ON PETITION
Application No. 10/900,551 :
Filed: July 27, 2004 :
Atty Docket No. 703561 :

This is a decision on the "PETITION UNDER 37 CFR § 1.182 TO CHANGE INVENTOR'S NAME," filed September 10, 2010. This also responds to the "REQUEST FOR CORRECTED FILING RECEIPT" filed September 10, 2010.

Applicant petitions for the correction of the name of the third-named inventor in the above-identified application. Applicant requests correction of inventor Martin's name from Theodore Martin to Ted R. Martin. Applicant states that the inventor's legal name is Ted Ray Martin and that Theodore Martin was provided in the typed version of his name in error (The inventor signed the declaration Ted R. Martin). In support thereof, applicant submits a signed statement of inventor Martin attesting to his legal name and a copy of the inventor's drivers license. The petition includes payment of the fee under 37 CFR 1.182 and an application data sheet reflecting the change of name.

The petition is **GRANTED**.

The inventor's name is changed in the records of the Office to "Ted R. Martin."

Technology Center AU 3636 has been advised of this decision. The application is thereby forwarded to the Technology Center for examination in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/900,551	07/27/2004	3636	2492	703561	54	8

CONFIRMATION NO. 7806

CORRECTED FILING RECEIPT

23460
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Date Mailed: 11/17/2010

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

Applicant(s)

Brock M. Walker, Okemos, MI;
Andrew J. Kurrasch, Saugatuck, MI;
Ted R. Martin, Hudsonville, MI;

Power of Attorney: The patent practitioners associated with Customer Number 23460

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/02251 01/27/2003
which claims benefit of 60/352,656 01/28/2002
and claims benefit of 60/387,654 06/10/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/900,551**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sacral support member for seating

Preliminary Class

297

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 23 2010

OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:	
Walter August Broeckx et al.	:	
Application No. 10/900,944	:	DECISION ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. CM2771	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 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 May 19, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 20, 2010. Accordingly, the date of abandonment of this application is June 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Technology Center 1796 for further processing of the amendment received July 20, 2010.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Young & Thompson
209 Madison Street
Suite 500
Alexandria, VA 22314

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Didier Lapeyre :
Application No. 10/901,443 : DECISION ON PETITION
Filed: July 29, 2004 : TO WITHDRAW FROM
Attorney Docket No. 0579-1083-5 : 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 February 11, 2011.

It is noted that practitioner has not certified that he has (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 papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. *See USPTO Form No. PTO/SB/83*[1].

It is further noted that practitioner has not provided a correspondence address for the intervening assignee[2] or first named singing inventor. Practitioner is reminded that 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).

In view of the above, the request to withdraw is under 37 CFR §§ 1.36(b) or 10.40 **NOT APPROVED**.

---

[1] 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*).

[2] 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).

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

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Liam McDowell
1061 Dalebrook Drive
Alexandria, VA 22308

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-03-2011-

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl.10/901515 Patent No: 7748631 (date of cocin) 08-24-2011

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 (Co f C
Randolph Square – 9D10-

EvaJames

What claims should be enter?

571-272-3422

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

The request for Certificate of Correction filed on 8/24/11 does not specifically show what needs to be corrected.

/Steven S. Paik/ — **SPE**

2887 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,748,631 B2
Serial No. : 10/901,515
Inventor(s) : Mehul M. Patel, et. al.
Issued : July 6, 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.

Respecting the alleged errors in your request, the request for Certificate of Correction filed on 8/24/11 does not specifically show what needs to be corrected.

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period with the sum of $100.00

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

Motorola Solutions, Inc.
IP Law Docketing
1303 East Algonquin Road
IL01/11th Floor
Schaumburg IL 60196

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 01 2011

OFFICE OF PETITIONS

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

In re Application of :
JEREMY LENT et al :
Application No. 10/901,715 : ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. 132538-1012 :

This is a decision on the petition, filed on August 14, 2006, "Request Under 37 CFR § 1.148(a) to Correct Inventorship and Petition Under 37 CFR § 1.183 to Waive Requirements of 37 CFR § 1.64." The processing fees under 37 CFR § 1.17(i) and 37 CFR § 1.17(f) has been received.

The petition under 37 CFR § 1.48(a) is **DISMISSED**.

The petition under 37 CFR § 1.183 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 §§1.48(a) and 1.183. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner indicates that during a review of the inventorship of the abovementioned application, that it was discovered that without any deceptive intent on behalf of any party, the listed inventorship was incorrect. Petitioner indicates that Dermot Gately was also an inventor of the subject matter claimed and submits the consent of the assignee to the addition of Dermot Gately. All signatures for a subsequent declaration have been obtained, except for inventors Munnamgi S. Reddi, Christopher O. Tract and TaChung Huang. Petitioner indicates that documents were sent to the last known address of Munnamgi S. Reddi and Christopher O. Tracy. Attempted hand deliveries to the last know home address of TaChung Huang as well as an email to his last known email address was made. Petitioner now submits a petition under 37 CFR § 1.183 requesting a waiver of the requirements of 37 CFR § 1.48(a)(3), and 37 CFR § 1.64.

The petition under 37 CFR § 1.48(a) is dismissed. The petition fails to demonstrate or establish that the assignee has the right to take the action requested. A review of the file indicates that insufficient documentary evidence of a chain of title has been submitted. See 37 CFR § 3.73(b).

37 CFR § 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. Here, presentation of a request to add an inventor requires a substitute declaration. The submitted exhibits are insufficient to establish due diligence for granting of the petition and the acceptance of the substitute declaration. Here the submission of a request to add Dermot Gately as an additional co-inventor requires a 37 CFR § 3.73(b) statement by the assignee. No 37 CFR § 3.73(b) statement has been submitted by petitioner.

Petitioner's statements regarding attempts to obtain the signature of Munnamgi S. Reddi present no evidence to establish proof of delivery and delivery to what specific home address. The evidence does not establish proof that the nonsigning inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(d). Also the record is not clear on what papers were sent to the nonsigning inventor.

Petitioner's statements regarding attempts to obtain the signature of Christopher O. Tracy fails to establish a refusal to sign and due diligence to obtain the signature. The statement indicates that Christopher O. Tracy has agreed to sign the documents. The evidence does not indicate what efforts were made to receive the papers from Christopher O. Tracy. See MPEP § 409.03(d).

Finally, the petitioner's statements regarding the attempts to obtain the signature of TaChung Huang have been reviewed and found lacking. The last known address is not stated, and the refusal to accept delivery does not indicate that the person who refused delivery was authorized to act on behalf of TaChung Huang. The facts do not indicate that the application papers were presented to the inventor at his last known home address. The email communication combined with the attempted hand delivery are insufficient to establish due diligence in obtaining the signature of the nonsigning inventor. See MPEP § 409.03(d).

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

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

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

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

The application file is being forwarded to Technology Center 3600, Art Unit 3693 for further action as appropriate.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: VAN PELT & YI LLP
10050 N. FOOTHILL BLVD. SUITE 200
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 06 2011

OFFICE OF PETITIONS

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

In re Application of :
JEREMY LENT et al :
Application No. 10/901,715 : ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. 132538-1012 :

This is a decision on the petition, filed on August 14, 2006, "Request Under 37 CFR § 1.148(a) to Correct Inventorship and Petition Under 37 CFR § 1.183 to Waive Requirements of 37 CFR § 1.64." The processing fees under 37 CFR § 1.17(i) and 37 CFR § 1.17(f) has been received.

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Petitioner indicates that during a review of the inventorship of the abovementioned application, that it was discovered that without any deceptive intent on behalf of any party, the listed inventorship was incorrect. Petitioner indicates that Dermot Gately was also an inventor of the subject matter claimed and submits the consent of the assignee to the addition of Dermot Gately. All signatures for a subsequent declaration have been obtained, except for inventors Munnamgi S. Reddi, Christopher O. Tract and TaChung Huang. Petitioner indicates that documents were sent to the last known address of Munnamgi S. Reddi and Christopher O. Tracy. Attempted hand deliveries to the last know home address of TaChung Huang as well as an email to his last known email address was made. Petitioner now submits a petition under 37 CFR § 1.183 requesting a waiver of the requirements of 37 CFR § 1.48(a)(3), and 37 CFR § 1.64.

The petition under 37 CFR § 1.48(a) is dismissed. The petition fails to demonstrate or establish that the assignee has the right to take the action requested. A review of the file indicates that insufficient documentary evidence of a chain of title has been submitted. See 37 CFR § 3.73(b).

37 CFR § 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. Here, presentation of a request to add an inventor requires a substitute declaration. The submitted exhibits are insufficient to establish due diligence for granting of the petition and the acceptance of the substitute declaration. Here the submission of a request to add Dermot Gately as an additional co-inventor requires a 37 CFR § 3.73(b) statement by the assignee. No 37 CFR § 3.73(b) statement has been submitted by petitioner.

Petitioner's statements regarding attempts to obtain the signature of Munnamgi S. Reddi present no evidence to establish proof of delivery and delivery to what specific home address. The evidence does not establish proof that the nonsigning inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(d). Also the record is not clear on what papers were sent to the nonsigning inventor.

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

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

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

The application file is being forwarded to Technology Center 3600, Art Unit 3693 for further action as appropriate.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: VAN PELT & YI LLP
10050 N. FOOTHILL BLVD. SUITE 200
CUPERTINO, CA 95014

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 9/12/2011
Patent No. : 7,937,455 B2
Serial No. : 10/901,830
Inventor(s) : Saha et al.
Issue Date : May 3, 2011
Title : **METHODS AND SYSTEMS FOR MODIFYING NODES IN A CLUSTER ENVIRONMENT**
Doc./File No. : **021756-005500US**

Re: Consideration for Certificate of Correction

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

Respecting the alleged error(s) in your request, inspection of the file of the application for the patent reveals that the error in claim 1, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner in the notice of allowance dated 12/23/10, no further request were entered into record. 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. Therefore, no correction is in order here.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch accompanied by the appropriate fee of $100.00.

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

Kilpatrick Townsend & Stockton LLP/Oracle
Two Embarcadero Center
8th Floor
San Francisco CA 94111-3834

ECW

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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BREINER & BREINER, L.L.C.
115 NORTH HENRY STREET
ALEXANDRIA, VA 22314

MAILED

FEB 08 2012

OFFICE OF PETITIONS

In re Application of
Liora G. Manne
Application No. 10/901,995
Filed: July 30, 2004
Attorney Docket No. 6246

DECISION ON PETITION
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed January 6, 2012.

The request is **APPROVED**.

The request was signed by Jennifer A. Harchick on behalf of herself. Therefore, Jennifer A. Harchick has been withdrawn as attorney/agent of record; all other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

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

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6983837
Issue Date: January 10,2006
Application No. 10902026
Filed: July 30,2004
Attorney Docket No. BHT-3095-158

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

This is a decision on the electronic petition, filed October 25,2010 ,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 25,2010 . 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)
6,983,837	2006-01-10	10/902,026	2004-07-30	7001.100

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Demian K. Jackson/	Date (YYYY-MM-DD)	2010-10-25
Name	Demian K. Jackson	Registration Number	57551

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

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of :
THELDE, David Victor :
Application No. 10/902,144 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,289,986 :
Filed: July 30, 2004 :
Attorney Docket No. 039226-0103

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 3, 2011

TO SPE OF : ART UNIT 2818
SUBJECT : Request for Certificate of Correction for Appl. No. 10902421 patent No.:7851796 B2
C of C mailroom date:--05-04-11

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

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

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

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

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

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

Comments: _____

Steven Sohl — **SPE**

2818 — **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

November 18, 2010
~~April 06, 2010~~

Stephen B. Goldman
Lerner, David, Littenberg, Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, NJ 09090

Patent No: 7,472,961 B2
Application No.: 10/902,556
Applicant: Larry Schwartz, et al.
Issued: January 06, 2009
Title: **WOVEN ARTICLES FROM SYNTHETIC**

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 Rules 1.322.

Inspection of the application for the patent reveals that the items in your request are 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 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 (voice)
571-270-9892 (fax)

vt

Copy

UNITED STATES 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 K. DICKSON
HOWREY, SIMON, ARNOLD & WHITE, LLP.
301 RAVENSWOOD AVENUE
MENLO PARK CA 94025

MAILED
FEB 21 2012
OFFICE OF PETITIONS

In re Patent No. 7,044,820 :
Issue Date: May 16, 2006 :
Application No. 10/902,809 : ON PETITION
Filed: August 2, 2004 :
Attorney Docket No. LADISA-0001 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 9, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

This patent issued on May 16, 2006. The first maintenance fee could have been paid from May 16, 2009 thru November 16, 2009, or with a $65 surcharge November 17, 2009 through May 16, 2010. Accordingly, the grace period for paying the last maintenance fee expired at midnight on May 16, 2010. The Office of Finance records disclose receipt of a $565 maintenance fee and a $1,640 surcharge reinstatement petition fee. In view thereof, and as payment of the maintenance fee was received prior to expiration of the 24-month grace period, the period for reinstatement under the unintentional provisions of 37 CFR 1.378(c) would be appropriate if the conditions of 37 CFR 1.378(c) are satisfied.

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 a signature of the assignee of the entire interest, of the applicant or the attorney of record.

The petition cannot be granted at this time since a review of the record discloses that the person that signed the petition is not the applicant or an attorney of record. Since it is not apparent whether the signature on the instant petition is from someone not authorized to sign a petition under 37 CFR 1.378, the statement of unintentional delay cannot be accepted at this time.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) · Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

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

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Sonia Ladisa) was ever given a power of attorney to act on behalf of inventor Nicolas Ladisa, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

If the instant petition is filed on behalf of the assignee, the petition does not comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) is enclosed with this decision on petition.

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.

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 obtained by written request from the Office of Finance, Refund Section, at the USPTO address listed below.

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

cc: SONIA LADISA
7102 ELIZABETH DRIVE
MCLEAN, VA 22101

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of	:	
White et al.	:	
Application No. 10/903,021	:	DECISION ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. WCB 3.0-037	:	

This is a decision on the renewed petition, filed September 9, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed September 11, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 22, 2010.

Petitioner asserts that the Office action dated September 11, 2009 was not received.

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

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

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

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

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1794 for re-mailing the Office action of September 11, 2009. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/903,021	07/30/2004	Neal E. White	WCB 3.0-037	3208

530 7590 11/02/2010

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER	
BECKER, DREW E	
ART UNIT	PAPER NUMBER
1782	
MAIL DATE	DELIVERY MODE
11/02/2010	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	10/903,021	WHITE ET AL.	
	Examiner	Art Unit	
	Drew E. Becker	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 May 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-17,19-26,53,54 and 57-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-17,19-26,53,54 and 57-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/22/09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4, 6-7, 9-17, 19-20, 22-26, 53-54, and 57-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art [pages 1-4 of the specification and Figures 1-3] in view of Swier [Pat. No. 5,692,392] and Wakeman [Pat. No. 2,975,617].

AAPA teaches a device and method for continuously making frozen edible products by preparing a mix of ingredients, providing compressed air, directing the ingredient mixture and compressed air into a continuous mixer to produce a degree of overrun, creating an emulsion, directing it through a conduit to a continuous-process freezer where it is partially frozen, transmitting it for further processing such as a filler (Figure 2), the product being ice cream with 5-10% milk fat (page 4, paragraph 0009), and the further processing including extrusion and an ingredient feeder (page 2, paragraph 0004). AAPA does not recite transmitting a first portion of the partially frozen emulsion back to the mixer, a diverting valve, increased overrun due to the recirculation, and independent pumps for the first and second portions. Swier teaches a device and method for selectively continuously making frozen edible products (column 4, line 36) by preparing an ingredient mixture (Figure 1, #23), directing it to a mixer and creating an

emulsion (Figure 2, #16), directing the emulsion via a conduit to a freezer where it is partially frozen (Figure 2, #14 & 42), selectively transmitting a first portion of the partially frozen emulsion back to the mixer (Figure 2, #15 & 18), transmitting a second portion for further processing by opening a diverting valve (Figure 2, #43), and a pump (Figure 2, #17), and wherein the apparatus of Swier was capable of continuous recycling and dispensing (column 3, line 63; column 4, line 37). Wakeman teaches a method for controlling the overrun of ice cream (column 1, lines 19-22) by combining compressed air and ice cream ingredients in a combined mixer/freezer (Figure 1, #10-14), selectively recirculating the ice cream after it leaves the combined mixer/freezer and returning it to the inlet of the mixer/freezer by use of an independent pump (Figure 2, #20 & 23), as well as another pump for moving the second portion (Figure 1, #18). It would have been obvious to one of ordinary skill in the art to incorporate the continuous recirculation and diverting valve of Swier into the system of AAPA since both are directed to methods and devices for continuously making frozen edible products, since AAPA already included a continuous mixer and continuous freezer (Figure 2), since the continuous recirculation and diverting valve of Swier kept the product flowing within the device during times of low demand thus preventing stationary or slow moving product from accumulating in the system and becoming too warm or too frozen, since the recirculation of Swier provided a more homogenous emulsion due to its repeated passes through the mixer, and since consumers commonly preferred creamy or well-mixed ice cream products. It would have been obvious to one of ordinary skill in the art to incorporate the selective overrun control of Wakeman into the method of AAPA, in view of Swier, since all are directed to

methods of making ice cream, since AAPA already included the mixing of compressed air and ice cream ingredients to provide a degree of overrun, since Swier already included selectively recirculating the ice cream from the freezer back to the mixer, and since Wakeman teaches that this recirculation in combination with compressed air provided more effective air introduction and a reduced density, in other words increased overrun (column 2, line 70 to column 3, line 14). In conclusion, all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

3. Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, in view of Swier and Wakeman, as applied above, and further in view of Sullivan et al [Pat. No. 5,355,691].

AAPA, Wakeman, and Swier teach the above mentioned concepts and components. AAPA also included a dasher (Figure 1, #101). AAPA, Wakeman, and Swier do not recite a variable frequency inverter. Sullivan et al teach a cooling device comprising a variable frequency inverter (column 2, line 27). It would have been obvious to one of ordinary skill in the art to incorporate the variable frequency inverter of Sullivan et al into the system of AAPA, in view of Swier and Wakeman, since all are directed to methods of cooling, since AAPA already included a dasher (Figure 1, #101) but simply did not describe how it was controlled, and since Sullivan et al teach that variable frequency

inverters were commonly used to control motor speed and power (column 2, lines 10-30).

Response to Arguments

4. Applicant's arguments filed 5/18/09 have been fully considered but they are not persuasive.

Applicant argues that the references do not teach an increased overrun. However, Wakeman expressly discloses this concept (column 2, line 70 to column 3, line 14).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., simultaneous recirculation and dispensing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Drew E Becker/
Primary Examiner, Art Unit 1794

Notice of References Cited	Application/Control No. 10/903,021	Applicant(s)/Patent Under Reexamination WHITE ET AL.	
	Examiner Drew E. Becker	Art Unit 1794	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2,975,617	03-1961	WAKEMAN ALDEN H	62/342
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/903,021	WHITE ET AL.	
	Examiner	Art Unit	
	Drew E. Becker	1794	

SEARCHED			
Class	Subclass	Date	Examiner
search	updated	8/28/2009	DEB

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR
EAST/WEST updated	8/28/2009	DEB

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AUG 10 2010

OFFICE OF PETITIONS

Perkins Coie LLP
PO Box 1247
Seattle WA 98111-1247

In re Application of :
X. Steve Yao :
Application No. 10/903,240 : DECISION ON APPLICATION
Filed: July 30, 2004 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No.12361-030001 :

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed March 30, 2010, which is being treated as a petition under 37 CFR 1.704(b). Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

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 two hundred and forty-two (242) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On January 13, 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 286 days. On March 30, 2010, applicant submitted the instant petition. Applicant maintains that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect because it is longer than appropriate.

Applicants' argument has been considered and is well taken. A review of the application file history reveals that the application is subject to a period of additional reduction to the patent term adjustment for which the Office did not account.

The reduction to the patent term adjustment results from the filing of an Information Disclosure Statement (IDS) after the filing of a reply on April 1, 2009. On May 15, 2009, 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 April 1, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed may 15, 2009, 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 44 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, April 2, 2009, and ending on the date that the IDS was filed,May 15, 2009. Accordingly, a period of reduction of 44 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 242 days (530 days of Office delay - 288 days of applicant delay.

Deposit account 06-1050 will be charged $200.00 for the fee set forth under 37 CFR 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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[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 address cited on the petition differs from the address of record. A courtesy copy of this petition is being mailed to the address cited on the petition. All future correspondence will be mailed to the address cited on the petition until appropriate written instructions to the contrary are received.

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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

cc:
Fish & Richardson
12390 El Camino Real
San Diego, CA 92130

PTA Calculations for Application: 10/903240

Application Filing Date:	07/30/2004	PTO Delay (PTO):	530
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	244
Post-Issue Petitions:	0	Total PTA (days):	242
PTO Delay Adjustment:	-44		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	08/05/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	213		
82	08/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		257	
70	01/13/2010	MAIL NOTICE OF ALLOWANCE			
69	01/08/2010	ISSUE REVISION COMPLETED			
68	01/08/2010	DOCUMENT VERIFICATION			
67	01/08/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	01/08/2010	CASE DOCKETED TO EXAMINER IN GAU			
64	01/08/2010	NOTICE OF ALLOWABILITY			
62	12/31/2009	DATE FORWARDED TO EXAMINER			
61	12/23/2009	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
60	12/23/2009	NOTICE OF APPEAL FILED		91	53
59	12/23/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	10/08/2009	CASE DOCKETED TO EXAMINER IN GAU			
55	06/23/2009	ELECTRONIC REVIEW			
54	06/23/2009	EMAIL NOTIFICATION			
53	06/23/2009	MAIL FINAL REJECTION (PTOL - 326)			
52	06/19/2009	FINAL REJECTION			
51	05/15/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	05/15/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	05/15/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	05/15/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	04/17/2009	DATE FORWARDED TO EXAMINER			
46	04/01/2009	RESPONSE AFTER NON-FINAL ACTION		90	42
45	04/01/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	10/01/2008	ELECTRONIC REVIEW			
43	10/01/2008	EMAIL NOTIFICATION			
42	10/01/2008	MAIL NON-FINAL REJECTION			
41	09/25/2008	NON-FINAL REJECTION			
40	09/19/2008	DATE FORWARDED TO EXAMINER			
39	09/11/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
38	09/19/2008	DATE FORWARDED TO EXAMINER			
37	09/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	09/19/2008	DISPOSAL FOR A RCE / CPA / R129			
35	09/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	09/11/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	06/27/2008	MAIL ADVISORY ACTION (PTOL - 303)			
32	06/23/2008	ADVISORY ACTION (PTOL-303)			
31	02/11/2008	NOTICE OF APPEAL FILED		63	27
30	06/18/2008	DATE FORWARDED TO EXAMINER			
29	02/11/2008	AMENDMENT AFTER FINAL REJECTION			
28	02/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	09/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
26	09/04/2007	FINAL REJECTION			
25	06/19/2007	DATE FORWARDED TO EXAMINER			
24	06/14/2007	RESPONSE AFTER NON-FINAL ACTION			
23	03/14/2007	MAIL NON-FINAL REJECTION	530		-1
22	03/13/2007	NON-FINAL REJECTION			
21	05/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	03/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	09/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17.7	05/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

17	05/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	07/06/2005	APPLICATION RETURN FROM OIPE			
14	07/07/2005	APPLICATION IS NOW COMPLETE			
13	07/06/2005	APPLICATION RETURN TO OIPE			
12	07/06/2005	APPLICATION DISPATCHED FROM OIPE			
11	07/06/2005	APPLICATION IS NOW COMPLETE			
10	12/13/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	12/13/2004	SMALL ENTITY STATEMENT (37 CFR 1.27)			
8	12/13/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/13/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	07/30/2004	PGPUBS NONPUB REQUEST			
5	09/21/2004	CLEARED BY L&R (LARS)			
4	09/16/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/16/2004	CASE CLASSIFIED BY OIPE			
2	08/23/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/30/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SEP 23 2010

OFFICE OF PETITIONS

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago IL 60606

Application No. 10/903,263 :
Filed: July 30, 2004 :
Inventor: Rajinder Singh et al : DECISION ON PETITION
Attorney Docket No. 09-570-US-2 :

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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JAN 20 2011

OFFICE OF PETITIONS

In re Application of :
Rajinder Singh et al. :
Application No. 10/903,263 : DECISION ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. 09-570-US-2 :

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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APR 20 2011

OFFICE OF PETITIONS

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago IL 60606

In re Application of	:	
Rajinder Singh et al.	:	
Application No. 10/903,263	:	DECISION ON PETITION
Filed: July 30, 004	:	
Attorney Docket No. 09-570-US-2	:	

This is a decision on the petition filed April 6, 2011, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimers filed April 13, 2009 be withdrawn.

The petition for withdrawal of terminal disclaimers is **DISMISSED**.

The final Office action of March 26, 2010 included a non-statutory double patenting rejection of certain claims. In response thereto, applicants filed terminal disclaimers on June 24, 2010. Petitioner requests that the terminal disclaimers now be withdrawn.

The examiner of record has indicated to the undersigned that at least one claim is still properly rejected under the non-statutory double patenting rejection as set forth in the final Office action. Accordingly, it would not be proper to withdraw the terminal disclaimers at this time.

For the reasons presented above, the petition to withdraw the terminal disclaimers is dismissed.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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Chicago IL 60606

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DEC 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Rajinder Singh et al.	:	
Application No. 10/903,263	:	DECISION ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. 09-570-US-2	:	

This is a decision on the Second Petition Under 37 CFR 1.182 to Withdraw Terminal Disclaimers, filed December 5, 2011, which is being treated as a request under 37 CFR 1.182 that the acceptance of disclaimers be withdrawn.

The petition for withdrawal of terminal disclaimers is **GRANTED**.

Applicants filed terminal disclaimers for US patents 7,329,672, 7,550,460, 7,498,435, 7,332,484 and 7,485,724 on June 24, 2010 in response to several non-statutory double patenting rejections first presented by the examiner in the final Office action mailed March 26, 2010.

The examiner of record has indicated to the undersigned that the terminal disclaimers in question are no longer needed as the non-statutory double patenting rejections based on the above noted patents are no longer applicable.

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

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11-15-10**

TO SPE OF : ART UNIT **1716**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10903360** Patent No.: **7645492**

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: approved.

/Parviz Hassanzadeh/ **SPE** 1716 **Art Unit**

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7040749	2006-05-09	10903696	2004-07-30	103731.010100

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Barry J. Schindler/	Date (YYYY-MM-DD)	2010-09-28
Name	Barry J. Schindler	Registration Number	32938

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. 7040749
Issue Date: May 9,2006
Application No. 10903696
Filed: July 30,2004
Attorney Docket No. ELTE 03006 PTUS

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

This is a decision on the electronic petition, filed September 28,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 28,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7031095	2006-04-18	10903720	2004-07-29	

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

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

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

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

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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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7031095
Issue Date: April 18,2006
Application No. 10903720
Filed: July 29,2004
Attorney Docket No. 139-031U

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

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

The petition is **GRANTED**.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7009804	2006-03-07	10903731	2004-07-29	

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

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/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.**

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

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

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

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

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. 7009804
Issue Date: March 7,2006
Application No. 10903731
Filed: July 29,2004
Attorney Docket No. 139-038U

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

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

The petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Arjan Tibbe, et al.	:	
Application No. 10/903,798	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. VDX5111USNP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 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 November 9, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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APR 05 2011

OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of :
Tibbe et al. :
Application No. 10/903,798 :
Filed: July 30, 2004 :
Attorney Docket No. VDX5111USNP :

DECISION ON PETITION
FOR PATENT TERM ADJUSTMENT

This decision responds to the paper filed November 1, 2010, and supplemented on February 4, 2011. The paper 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 zero (0) days to seven hundred fifty-four (754) days.

The petition is **dismissed**.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) ("Determination of PTA") on August 13, 2010, advising Applicants of a patent term adjustment to date of 0 days. In response, Applicants filed the instant petition on November 1, 2010, prior to the submission of the issue fee.

Applicants filed a petition to withdraw from issue on December 21, 2010. The decision was granted on December 22, 2010.

The Office issued a mailed a new Determination of PTA on January 11, 2011, advising Applicants of a patent term adjustment to date of 0 days.

The Office issued a letter on January 25, 2011, in response to the instant petition. The letter indicated the papers filed November 1, 2010, did not appear to include a copy of Exhibit A referenced in the petition. A copy of Exhibit A was filed February 4, 2011.

The patent term adjustment determination mailed with the January 11, 2011 Notice of Allowance was the result of the Office's entry of the following adjustments to the patent term:

1. A 468-day increase for delay under 37 C.F.R. § 1.703(a)(1),
2. An 80-day increase for delay under 37 C.F.R. § 1.703(a)(2),

3. A 652-day reduction for delay under 37 C.F.R. § 1.704(b), and
4. A 1-day reduction for delay under 37 C.F.R. § 1.704(c)(8).

The petition states the patent term adjustment should have been at least 754 days. The petition asserts the Office should have entered the following adjustments:

1. A 468-day increase for delay under 37 C.F.R. § 1.703(a)(1),
2. A 982-day increase for delay under 37 C.F.R. § 1.703(b),
3. A 652-day reduction for delay under 37 C.F.R. § 1.704(b),
4. A 1-day reduction for delay under 37 C.F.R. § 1.704(c)(8), and
5. A 43-day reduction for delay under 37 C.F.R. § 1.704(c)(8).

Issue 1

The first issue to be addressed is the propriety of the petition's assertion the patent term adjustment determination mailed with the Notice of Allowance should have included an increase in patent term adjustment for delay under 37 C.F.R. § 1.703(b).

To the extent the petition 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 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).

Issue 2

The second issue to be addressed by the Office is the extent to which the facts identified in this section of the decision warrant a reduction in patent term adjustment for delay under 37 C.F.R. § 1.704 ("Applicant Delay").

The application was filed July 30, 2004.

The Office issued an Office action in the form of a restriction requirement on January 11, 2007. The Office action set a time period for reply of the later of 1 month or 30 days. An extension of time to respond to the Office action was not obtained. Therefore, a reply was due on or before Monday, February 12, 2007. A reply was not filed on or before February 12, 2007. As a result, the application became abandoned on February 13, 2007.

A reply to the January 11, 2007 Office action was filed on April 10, 2007. However, the reply was untimely because the reply did not include payment for an extension of time.

A petition to revive the application was filed under 37 C.F.R. § 1.137(b) and a copy of a response to the January 11, 2007 Office action were filed on January 22, 2009.

The Office issued a decision granting the petition on February 17, 2009.

The Office entered a 652-day reduction in patent term adjustment for Applicant Delay under 37 C.F.R. § 1.704(b) based on the prior facts. The petition agrees the facts warrant a 652-day reduction in patent term adjustment.

A review of the record indicates a reply to the January 11, 2007 Office action was filed on April 10, 2007, which was within three months of the issuance date of the Office action. Therefore, a reduction in patent term adjustment is not warranted under 37 C.F.R. § 1.704(b).

Although a reduction in patent term adjustment is not warranted under 37 C.F.R. § 1.704(b), a reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(3).

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[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.

Pursuant to 37 C.F.R. § 1.704(c)(3), circumstances that will result in a reduction in the period of adjustment include the abandonment of the application. If an application is abandoned, the reduction under 37 C.F.R. § 1.704(c)(3) is the number of days beginning on the date of abandonment and ending on the earlier of: (1) the date of mailing of the decision reviving the application or accepting late payment of the issue fee; or (2) 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.

The period of delay under 37 C.F.R. § 1.704(c)(3) in this case is 736 days, which is the number of days beginning on February 13, 2007, the date of abandonment, and ending February 17, 2009, the date the Office issued a decision reviving the application.

In view of the prior discussion, the Office should have entered a 736-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(3) instead of a 652-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b).

Issue 3

The third issue to be addressed by the Office is the extent to which the facts identified in this section of the decision warrant an increase in patent term adjustment for delay under 37 C.F.R. § 1.703(a)(2).

A petition to revive the application was filed under 37 C.F.R. § 1.137(b) on January 22, 2009, along with a copy of a reply to the January 11, 2007 Office action.

The Office issued a decision granting the petition on February 17, 2009.

On August 10, 2009, the Office issued a non-final Office action in response to the reply filed with the petition to revive on January 22, 2009.

Pursuant to 37 C.F.R. § 1.703(a)(2), the period of adjustment of patent term due to examination delay includes:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

The petition asserts, and the Office previously determined, the prior facts warrant an increase in patent term adjustment under 37 C.F.R. 1.704(c)(2) of 80 days, which is the number of days beginning on May 23, 2009, which is the day after the date four months after the reply was filed with the petition to revive, and ending on August 10, 2009, the date the Office mailed a non-final Office action in response to the reply.

A review of the record indicates an 80-day increase in patent term adjustment is not warranted under 37 C.F.R. § 1.704(a)(2).

The four-month period set forth in 37 C.F.R. § 1.704(a)(2) did not begin until February 17, 2009, the date the application was revived. The number of days beginning June 18, 2009, the day after the date four months after the date the application was revived, and ending August 10, 2009, the date the Office issued a non-final Office action, is 54 days. Therefore, the proper period of delay under 37 C.F.R. § 1.703(a)(2) is 54 days, not 80 days.

Issue 4

The fourth issue to be addressed by the Office is the extent to which the facts identified in this section of the decision warrant a reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(8).

The Office mailed a non-final Office action on August 10, 2009.

A reply to the Office action was filed November 10, 2009.

An information disclosure statement ("IDS") was filed on December 23, 2009, prior to the Office issuing any response to the November 10, 2009 reply.

The Office mailed a final Office action on February 8, 2010.

The petition asserts the prior facts warrant a 43-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

Pursuant to 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.

37 C.F.R. § 1.704(d) states,

> 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 IDS was not accompanied by 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 November 11, 2009, the day after the date the November 10, 2009 reply was filed, and ending December 23, 2009, the date the IDS was submitted, is 43 days. Therefore, a 43-day reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(8).

Issue 5

The fifth issue to be addressed by the Office is the extent to which the facts identified in this section of the decision warrant a reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(8).

The Office issued a non-final Office action on April 28, 2010.

A reply to the Office action was filed July 27, 2010.

Office PALM records indicate a terminal disclaimer was filed on July 28, 2010.

The petition asserts, and the Office previously determined, a 1-day reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(8) as a result of the submission of the terminal disclaimer.

A review of the file for the instant application indicates the terminal disclaimer was filed on July 27, 2010, not July 28, 2010. The entry of the July 28, 2010 date in PALM was erroneous.

Since the terminal disclaimer was filed on the same date as the reply, the submission of the terminal disclaimer does not warrant a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

Issue 6

The sixth issue to be addressed by the Office is the extent to which the facts identified in this section of the decision warrant a reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(10).

The Office issued a Notice of Allowance on August 13, 2010.

A response to the August 13, 2010 notice was filed November 9, 2010.

A petition to withdraw from issue, a request for continued examination ("RCE"), and an IDS were filed December 21, 2010. The IDS did not include a statement under 37 C.F.R. § 1.704(d).

A decision granting the petition to withdraw from issue was mailed December 22, 2010.

A new Notice of Allowance was issued January 11, 2011.

37 C.F.R. § 1.704(c)(10) states,

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

The filing of the petition, RCE, and IDS on December 21, 2010, warrants a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10). The period of delay associated with the filing of the petition to withdraw from issue is 2 days, which is the number of days beginning December 21, 2010, the date the petition was filed, and ending December 22, 2010, the date a decision granting the petition was filed. The period of delay associated with the filing of the RCE and IDS is 22 days, which is the number of days beginning December 21, 2010, the date the RCE and IDS were filed, and ending January 11, 2011, the date the Office mailed a new Notice of Allowance. The 2-day period of delay falls completely within the 22-day period of delay. Therefore, the total period of delay under 37 CFR 1.704(c)(10) is 22 days.

Conclusion

The total period of delay under 37 C.F.R. § 1.703(a) ("A Delay") is 522 days, which is the sum of 468 days of delay under 37 C.F.R. § 1.703(a)(1) and 736 days of delay under 37 C.F.R. § 1.703(a)(2):

The total period of Applicant Delay is 801 days, which is the sum of 736 days of delay under 37 C.F.R. § 1.704(c)(3), 43 days of delay under 37 C.F.R. § 1.704(c)(8), and 22 days of delay under 37 C.F.R. § 1.704(c)(10).

Even though the total period of Applicant Delay is greater than the total period of A Delay, the patent term adjustment determination of 0 days mailed with the January 11, 2011 Notice of Allowance was correct because the Office does not set forth negative balances of patent term adjustment.

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

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any Applicant Delay under 37 C.F.R. § 1.704(c)(10) incurred after the issuance of the most recent Notice of Allowance 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

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AUG 02 2011

OFFICE OF PETITIONS

MCDONNELL, BOEHNEN, HULBERT & BERGHOFF, LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

In re Patent No. 7,122,542 :
Issue Date: October 17, 2006 :
Application No. 10/903,870 : NOTICE
Filed: July 30, 2004 :
Attorney Docket No. 09-570-US-3 :

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

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

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

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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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of

Rosampour

Application No. 10/903,986

Filed: July 30, 2004

DECISION ON PETITION

Attorney Docket No. **82187288**

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 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)."

The above-identified application became abandoned for failure to file a response or seek judicial review after the Decision on Appeal was rendered on August 29, 2011. A Notice of Abandonment was mailed November 7, 2011.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of items (1) and (2) above.

As to items (1) and (2), it is noted that Clifton L. Anderson, Registration Number 30-989, is not an authorized user of deposit account 08-2025. Accordingly, the designated deposit account could not be charged for the petition fee or the fee required to accompany the Request for Continued Examination. The renewed petition must be accompanied by the petition fee and the fee for the Request for Continued Examination or a proper authorization to charge a deposit account for the same.

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of :

Rosampour :

Application No. 10/903,986 : DECISION ON PETITION

Filed: July 30, 2004

Attorney Docket No. **82187288**

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 2, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a response or seek judicial review after the Decision on Appeal was rendered on August 29, 2011. A Notice of Abandonment was mailed November 7, 2011.

The Request for Continued Examination filed March 2, 2012, is noted.

Deposit account 08-2025 will be charged $1,860.00 for the petition fee and $930.00 for the fee for the Request for Continued Examination.

The application file is being forwarded to Technology Center 2100, GAU 2185 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Krajec Patent Offices, LLC /
Sandwave IP, LLC
1635 Foxtrail Drive
Suite 321
Loveland CO 80538

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OFFICE OF PETITIONS

In re Application of :
Donald Bishop : DECISION ON
Application No. 10/904,085 : PETITION
Filed: January 19, 2005 :
Atty Docket No. MEDI 04USU1 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed May 12, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the non-final Office action mailed May 12, 2010. A notice of appeal was timely filed on August 12, 2010. However, no appeal brief or further reply filed and no extension of time obtained, the application became abandoned effective August 13, 2010. A courtesy Notice of Abandonment was mailed on April 28, 2011.

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

Technology Center AU 2614 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on May 12, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB - 3 2011

In re Application of:
JOHN PRESLEY ET AL
Application No. 10/904,231
Filed: October 29, 2004
Attorney Docket No. 006979-001351
Issue Date: 00/00/0000
For: PHTOLUMINESCENT EXIT DEVICE

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue pursuant 37 CFR § 1.313 (b) to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Paul Dickson at (571)-272-7742.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

David L. Talbott, Director
Technology Center 3600
cc: Office of Patent Publication: Office of Patent Publication

Moore & Van Allen PLLC
P.O. Box 13706
Research Triangle Park, NC 27709

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)
7,221,994	2007-05-22	10/904,383	2004-11-08	LKSP0043USA

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-09
Name	Winston Hsu	Registration Number	41526

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

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

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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)).

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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7221994
Issue Date: May 22,2007
Application No. 10904383
Filed: November 8,2004
Attorney Docket No. LKSP0043USA

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,180,128	2007-02-20	10/904,478	2004-11-12	LKSP0149USA

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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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	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-05
Name	Winston Hsu	Registration Number	41526

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7180128
Issue Date: February 20,2007
Application No. 10904478
Filed: November 12,2004
Attorney Docket No. 13281-US-PA

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

This is a decision on the electronic petition, filed April 5,2012 ,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 5,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7029973
Issue Date: April 18,2006
Application No. 10904514
Filed: November 15,2004
Attorney Docket No. LKSP0008USA1

:
: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.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,029,973	2006-04-18	10/904,514	2004-11-15	LKSP0008USA1

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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)
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SURCHARGE

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Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-03
Name	Winston Hsu	Registration Number	41526

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

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MOORE & VAN ALLEN, PLLC FOR BOFA
430 DAVIS DRIVE, SUITE 500
POST OFFICE BOX 13706
RESEARCH TRIANGLE PARK NC 27709

In re Patent No. 7,584,255	:	DECISION ON REQUEST
Hogeboom et al.	:	FOR
Issue Date: 09/01/2009	:	RECONSIDERATION OF
Application No. 10/904,532	:	PATENT TERM ADJUSTMENT
Filed: 11/15/2004	:	
Atty Docket No.	:	
014033-000054	:	

This is a decision on the petition filed on May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred three (1303) 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 one thousand two hundred four (1204) days.

As to the "B" delay period, the over three year period begins on November 16, 2007, and ends on September 1, 2009, the date the patent issued, and is 656 days. Considering the overlapping period of 99 days, beginning on November 16, 2007, the day after the date three years after the date the application was filed, and ending on February 22, 2008, the date the first Office action was mailed, the "B" delay is 557 (656 – 99) days.

Patentee asserts that the period of adjustment under 37 CFR 1.702(a)(1) is incorrectly noted as 669 days rather than 768 days. Patentee is correct that the period of adjustment is 768 days, from January 16, 2006, the day after the date fourteen months after the date the application was filed, to February 22, 2008, the date the first Office action was mailed. The 669-day entry, however, reflects merely the subtraction, in the Office PALM and PAIR database, of the overlapping period of 99 days.

Accordingly, no change will be made to the patent term adjustment of 1204 (768 days Office delay + 557 days three years delay – 121 days of applicant delay) days indicated in the Decision

on Request for Recalculation of Patent Term Adjustment in View of *Wyeth* and Notice of Intent to Issue Certificate of Correction, mailed on April 21, 2010.

No fee is due for the subject request for reconsideration of the Decision on Request for Recalculation. The $200.00 fee will be credited to counsel.

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.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,209,536	2007-04-24	10904630	2004-11-19	142301-1

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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SURCHARGE

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Scott J. Asmus/	Date (YYYY-MM-DD)	2011-06-24
Name	Scott J. Asmus	Registration Number	42269

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

Privacy Act Statement

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

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

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

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

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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. 7209536
Issue Date: April 24,2007
Application No. 10904630
Filed: November 19,2004
Attorney Docket No. 142301-1

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

This is a decision on the electronic petition, filed July 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 July 1,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7002749
Issue Date: February 21,2006
Application No. 10904745
Filed: November 24,2004
Attorney Docket No. 51900-000-01-007

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

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

The petition is **GRANTED**.

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

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

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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)
7002749	2006-02-21	10904745	2004-11-24	51900-000-01-007

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	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Stanley H. Kremen/	Date (YYYY-MM-DD)	2011-03-23
Name	Stanley H. Kremen		

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,235,839	2007-06-26	10/904,749	2004-11-25	LKSP0164USA

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-09
Name	Winston Hsu	Registration Number	41526

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

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

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.

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www.uspto.gov

In re Patent No. 7235839
Issue Date: June 26,2007
Application No. 10904749
Filed: November 25,2004
Attorney Docket No. 13806-US-PA

:
: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.

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

In re Application of
Edward L. Gibbs

Application No. 10904871

Filed: December 1,2004

Attorney Docket No. 031

:
:
: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 23-AUG-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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

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DEC 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Valenti, et al.	:	
Application No. 10/904,881	:	ON REQUEST FOR
Filed: December 2, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 088245-5199	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 2, 2011. Applicants believe that the PTA should be accorded an additional three hundred two (302) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

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

In view thereof, the correct determination of PTA prior to issuance is **nine hundred thirty-three (933) days.**

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 the undersigned at (571) 272-3207.

Cliff Congo
Petitions 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

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ROSHARON, TX 77583

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FEB 04 2011

OFFICE OF PETITIONS

In re Application of
Herve Ohmer
Application No. 10/904,910
Filed: December 3, 2004
Attorney Docket No.: 68.0513

ON PETITION

This is a decision in response to the petition, filed November 12, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned on October 11, 2010 for a failure to reply in a timely manner to an Office communication mailed September 10, 2010. This decision precedes the mailing of a Notice of Abandonment. On November 12, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

The application is being referred to Technology Center AU 3672 for consideration by the Examiner in the normal course of business on the response filed November 12, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further processing at the Technology Center should be directed to the Examiner, David Andrews, at 571-272-6558.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FRED G. PRUNER
TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057

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)
7095539	2006-08-22	10904920	2004-12-06	51900-000-01-010

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Stanley H. Kremen/	Date (YYYY-MM-DD)	2011-03-23
Name	Stanley H. Kremen		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES 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. 7095539
Issue Date: August 22,2006
Application No. 10904920
Filed: December 6,2004
Attorney Docket No. 51900-000-01-010

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

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

The petition is **GRANTED**.

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

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

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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LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO IL 60654-4746

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Mateo Dylan Ward et al. :
Application No. 10/904,937 :
Filed: December 6, 2004 :
Attorney Docket No. **214187-30001** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed August 17, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

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.*

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
www.uspto.gov

Decision Date : September 12,2011

In re Application of :

Mateo Ward

Application No : 10904937

Filed : 06-Dec-2004

Attorney Docket No : 214187-30001

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 September 12,2011

The request is **APPROVED.**

The request was signed by Nancy J. Leith (registration no. 45309) on behalf of all attorneys/agents associated with Customer Number 69139 . All attorneys/agents associated with Cusotmer Number 69139 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	Mateo Dylan Ward
Name2	
Address 1	1111 Brickell Bay Drive
Address 2	
City	Miami
State	FL
Postal Code	33131
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10904937
Filing Date	06-Dec-2004
First Named Inventor	Mateo Ward
Art Unit	3689
Examiner Name	SHEWANA SKINNER
Attorney Docket Number	214187-30001
Title	Real-time Professional Services Facilitator system and method

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 69139

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

10.40(c)(1)(iv)

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Mateo Dylan Ward
Address	1111 Brickell Bay Drive
City	Miami
State	FL
Postal Code	33131

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Nancy J. Leith/
Name	Nancy J. Leith
Registration Number	45309

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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PHILIP S JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re
Konieczynski, et al.
Application No. 10/904,984
Filed: December 8, 2004
Patent No. 7,931,678
Issued: April 26, 2011

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

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d) AFTER PATENT ISSUANCE", filed June 27, 2011. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from nine hundred forty-one (941) days to eight hundred sixty-four (864) days.

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

On December 28, 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 eight hundred ninety (890) days. On March 16, 2011, Applicants filed a "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", which was a candor letter indicating that the 890 days of patent term accorded was thought to be longer than appropriate by 119 days. On April 26, 2011, the application issued into Patent No. 7,931,678, with a patent term adjustment of nine hundred forty-one (941) days.

A review of the file reveals that Applicants were assessed delay of forty-two (42) days for filing the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" on March 16, 2011. 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.

In addition, a review of the file reveals that Applicants also should have been assessed an additional ninety-eight (98) days of delay pursuant to 37 CFR 1.704(c)(8). Applicants filed an IDS on September 9, 2009, subsequent to an RCE filed on June 3, 2009. Accordingly, ninety-eight (98) days of Applicant delay should have been assessed with respect to the submission of this supplemental paper under 37 CFR 1.704(c)(8).

Furthermore, pursuant to 37 CFR 1.704(c)(10), Applicants should have been assessed delay for filing a paper after the Office had mailed a Notice of Allowance. The Office mailed a Notice of Allowance on July 2, 2010. In reply, Applicants filed an RCE on September 27, 2010. In response, the Office mailed another Notice of Allowance on December 28, 2010. Accordingly, ninety-three (93) days of Applicant delay should have been assessed under 37 CFR 1.704(c)(10).

In view thereof, the correct determination of patent term adjustment is seven hundred ninety-two (792) days (976 (524+449+3) days of "A" delay and 542 days of "B" delay, reduced by 277 (98+86+93) days of applicant delay and 449 days of overlap between "A" and "B" delay).

The $200 fee has been charged to Deposit Account No. 10-0750, as authorized. Petitioner's request for waiver of this fee is dismissed, as the fee is required for the Office's consideration of the application for patent term adjustment.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **seven hundred ninety-two (792) days.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,931,678 B2

DATED : **April 26, 2011**

INVENTOR(S) : Konieczynski 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 941 days.

Delete the phrase "by 941 days" and insert – by 792 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

GEOFFREY E. DOBBIN,PATENT ATTORNEY
4278 SOUTH 6229 WEST
WEST VALLEY CITY UT 84128-6501

MAILED

JUL 26 2011

OFFICE OF PETITIONS

In re Application of :
Andrew D. Jones et al :
Application No. 10/904,996 : DECISION ON PETITION
Filed: December 8, 2004 :
Attorney Docket No. GDADJ01A :

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

The petition is **GRANTED**.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional

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 replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notices mailed June 26, 2008 and July 22, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawings submitted on April 8, 2011.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,725,345
Issue Date: May 25, 2010
Application No. 10/905,135
Filed: December 17, 2004
Attorney Docket No. 1899US1.014033.056

DECISION ON PETITION

This is a decision on the Request For Reprint Of US Patent No. 7,725,345 And Submission Of Certificate Of Correction, filed June 7, 2010 and September 21, 2010, which is being treated as a petition under 37 CFR §1.182 to reprint the assignee's name on the front page of the Letters Patent and a petition under 37 CFR §3.81(b) to accept the correction of the assignee on the front page of the above-identified patent.

The petition under 37 CFR §1.182 to reprint the front page of the Letters Patent is **DISMISSED**.

The petition under 37 CFR §3.81(b) to correct the assignee's name is **GRANTED**.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an application in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which states:

> "Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such correct form."

In view of the above and since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the front page of the Letters Patent.

Petitioner states that the correct assignee's name is *Bank of America Corp., Charlotte, NC (US)* and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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

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

The request was accompanied by the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i). Further, Office assignment records reflect that *Bank of America Corp.* is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR §3.81(b), it is would be appropriate for the Office to issue a Certificate of Correction to be processed after issuance of this application into a patent in accordance with the content at Item (73).

However, petitioner requests several corrections to be made In The Columns. Therefore, these corrections will be handled directly in the Certificate of Correction Branch.

Inquiries concerning this decision 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 after issuance of this application into a patent.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7109082
Issue Date: September 19,2006
Application No. 10905189
Filed: December 21,2004
Attorney Docket No. 13283-US-PA

:
: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)
7,109,082	2006-09-19	10/905,189	2004-12-21	LKSP0138USA

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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Under 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	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-09
Name	Winston Hsu	Registration Number	41526

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.

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BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS, TN 38119

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Application of :
John P. DAY :
Application No. 10/905,232 :
Filed: December 22, 2004 :
Attorney Docket No. 027286.50312 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 12, 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 above-identified application became abandoned on April 12, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $930; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 12, 2007 is accepted as having been unintentionally delayed.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

With regard to petitioner's filing a Terminal Disclaimer on October 24, 2011, it is noted that the Terminal Disclaimer has been disapproved as being unnecessary as the instant case does not have a filing date before June 8, 1995. Accordingly, the terminal disclaimer fee of $80 will be refunded in due course.

Telephone inquiries concerning this decision should be directed to Joanne Hama at (571) 272-2911 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3652 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

cc: Julie R. Baldridge
165 Madison Ave., Suite 2000
Memphis, TN 38103

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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GEOFFREY E. DOBBIN, PATENT
ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application of

Fitzpatrick, et al.

Application No. 10/905,312

Filed: December 27, 2004

Attorney Docket No. **GDRMF01J**

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed May 9, 2011.

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

The record reflects that a Notice to File Missing Parts of Non-Provisional Application was mailed on July 25, 2005, allowing a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). No response were received within the allowable period as set forth in the Notice mailed July 25, 2005, and the application became abandoned on September 26, 2005. A Notice of Abandonment was mailed on April 4, 2006.

The fees are noted as having been received may 9, 2011.

This application is being forwarded to the Office of Patent Application Processing for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,056,787	2006-06-06	10/905,610	2005-01-12	LKSP0125USA

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-05
Name	Winston Hsu	Registration Number	41526

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

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

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

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

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

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

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

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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

In re Patent No. 7056787
Issue Date: June 6,2006
Application No. 10905610
Filed: January 12,2005
Attorney Docket No. 13042-US-PA

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

This is a decision on the electronic petition, filed April 5,2012 ,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 5,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Innes et al.	:	DECISION ON PETITION
Application No. 10/905,655	:	TO WITHDRAW
Filed: January 14, 2005	:	FROM RECORD
Attorney Docket No. 2006579-0249	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 10, 2010.

The request is **NOT APPROVED**.

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.

The request was signed by Brenda Herschbach Jarrell on behalf of all attorneys of record. 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. Therefore, the current request cannot be approved at this time. Any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed.

Further, the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b). The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor.

In view of the above the request cannot be approved at this time.

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.

There is an outstanding Non final Office action mailed December 23, 2010, which requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7131938	2006-11-07	10/906,026	2005-01-31	62593.08

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jflee/	Date (YYYY-MM-DD)	2010-12-28
Name	Jen-Feng Lee	Registration Number	46864

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7131938
Issue Date: November 7,2006
Application No. 10906026
Filed: January 31,2005
Attorney Docket No. 62593.08

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 28,2010 ,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 28,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7178850	2007-02-20	10906209	2005-02-09	P041

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Themi Anagnos/	Date (YYYY-MM-DD)	2011-11-27
Name	Themi Anagnos	Registration Number	47388

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. 7178850
Issue Date: February 20,2007
Application No. 10906209
Filed: February 9,2005
Attorney Docket No. 35447.04.0001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 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 November 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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ADVENT IP LLC
1652 48TH STREET
BROOKLYN, NY 11204

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Mike VARGO, et *al.* :
Application No. 10/906,598 : DECISION ON PETITION
Filed: February 25, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **12259-48770** :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 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 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 November 5, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 6, 2010. *See* MPEP 1215.04.

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. 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)(II)(C) and (D). The instant petition lacks items (1) and (3) above.

Turning first to item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. In this regard, the petition containing the statement of unintentional delay is signed by Benzion A. Wachsman, who is representing the assignee of the above-identified application. Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition containing the statement of unintentional delay is not signed by all the inventors and/or the record herein fails to disclose that petitioner herein (Mr. Wachsman) was ever given a power of attorney to act on behalf of the other inventors, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay. **As it appears that Mr. Wachsman is signing on behalf of an assignee, compliance with 37 CFR 3.73(b) must be satisfied**. In this regard, 37 CFR 3.73(b) provides:

> (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 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.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

In view of the above, and as it appears that Mr. Wachsman is signing the statement of unintentional delay as a representative of the assignee, then compliance with 37 CFR 3.73(b) must be satisfied. A blank certificate under 37 CFR 3.73(b) is enclosed with this decision for petitioner's convenience.

As to item (1) above, the reply is considered defective also for the reasons stated above (that the paper (reply) must be signed by a proper party; *i.e.*, all the inventors or an assignee of the entire interest and, if signed by an assignee of the entire interest, must satisfy the provisions of 37 CFR 3.73(b).

In sum, petitioner must submit a petition containing a statement of unintentional delay and reply (amendment) signed by all the inventors, **unless** petitioner herein is the assignee of the entire right, title and interest in the instant application, then compliance with 37 CFR

3.73(b) must be satisfied, which can be accomplished by completion of the enclosed certificate under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosure: **Certificate under 37 CFR 3.73(b) and Privacy Act Statement**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADVENT IP LLC
1652 48TH STREET
BROOKLYN, NY 11204

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Mike VARGO, et *al.* :
Application No. 10/906,598 : DECISION ON PETITION
Filed: February 25, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **12259-48770** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 5, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 6, 2010. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2473 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman K. Page
Petitions Exminer
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/906,598	02/25/2005	Mike Vargo	12259-48770	3598

7590 08/16/2011

Advent IP LLC
1652 48th Street
Brooklyn, NY 11204

EXAMINER	
NGUYEN, HANH N	
ART UNIT	PAPER NUMBER
2473	
MAIL DATE	DELIVERY MODE
08/16/2011	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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MAILED

AUG 15 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Benzion A. Wachsman
Advent IP LLC
1652 48th Street
Brooklyn NY 11204

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

In re Application of: VARGO, M., et. al.
Application No.: **10/906,598**
Filed: February 25, 2005
Docket No.: 12259-48770
Title: SYSTEM ARCHITECTURE FOR INTERNET TELEPHONE

This is a decision on the petition filed on **May 27, 2011** under 37 CFR § 1.181(a)(3) requesting that the Examiner consider Preliminary Amendment filed on May 20, 2011 and Substitute Specification and Replacement Sheets of drawings filed on May 24, 2001.

The petition is **DISMISSED AS MOOT**.

A review of the file of the instant application indicates that, on August 09, 2011, the Office considered Preliminary Amendment filed on May 20, 2011 and Substitute Specification and Replacement Sheets of drawings filed on May 24, 2001and that applicant was informed of such via a Supplemental Notice of Allowance (PTOL-85) including PTO-90C communication indicating that Preliminary Amendment filed on May 20, 2011 and Substitute Specification and Replacement Sheets of drawings filed on May 24, 2001 have been entered and considered accordingly. Since the Examiner considered Preliminary Amendment filed on May 20, 2011 and Substitute Specification and Replacement Sheets of drawings filed on May 24, 2001, this petition is rendered 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, Christopher C. Grant, Quality Assurance Specialist, can be reached at (571) 272-7294.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/906,598	02/25/2005	Mike Vargo	12259-48770	3598

7590 12/29/2011

Advent IP LLC
1652 48th Street
Brooklyn, NY 11204

EXAMINER	
NGUYEN, HANH N	
ART UNIT	PAPER NUMBER
2473	

MAIL DATE	DELIVERY MODE
12/29/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111225

DATE : December 25, 2011

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction on Patent No.: 8039726

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:

/KWANG B YAO/
Supervisory Patent Examiner, Art Unit 2473

C of C

OPAP
NOV 22 2011
IAP11
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Mike Vargo et al.

Patent No.: 8,032,808 Application No.: 10/906,598

Issued: October 4, 2011 Filed: February 25, 2005

Title: System Architecture for Internet Telephone

REQUEST FOR CERTIFICATE OF CORRECTION

OK TO ENTER: /H.N./ 12/25/11

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
NOV 25 2011
of Correction

Dear Sir:

The patentee of the above-identified patent respectfully requests that the Director of the United States Patent and Trademark Office certify the attached Certificate of Correction.

The mistakes corrected in the Certificate of Correction occurred through the fault of the U.S. Patent and Trademark Office, as a result of the failure to issue the patent claims as shown in the last amendment submitted on August 12, 2011 and entered by the Examiner on August 22, 2011.

Dated: November 16, 2011

Respectfully submitted,
Verso Technologies, Inc. (Assignee)

Signature: /Benzion A. Wachsman/
Name: Benzion A. Wachsman
Title: General Manager
Tel.: (718) 928-2213
Fax: (718) 504-9671

OPAP IAP11 NOV 22 2011 PATENT & TRADEMARK OFFICE

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Advent IP LLC

Application No./Patent No.: 8,032,808 Filed/Issue Date: October 4, 2011

Titled: System Architecture for Internet Telephone

Advent IP LLC (Name of Assignee), a Delaware limited liability company (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: Mike Vargo and Jerry Chang To: Clarent Corporation
   The document was recorded in the United States Patent and Trademark Office at Reel 025460, Frame 0542, or for which a copy thereof is attached.

2. From: Clarent Corporation To: Verso Technologies, Inc.
   The document was recorded in the United States Patent and Trademark Office at Reel 022445, Frame 0713, or for which a copy thereof is attached.

3. From: Verso Technologies, Inc. To: Advent IP LLC
   The document was recorded in the United States Patent and Trademark Office at Reel 022343, Frame 0807, or for which a copy thereof is attached.

[ ] 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.

/Benzion A. Wachsman/	November 16, 2011
Signature	Date
Benzion A. Wachsman	General Manager
Printed or Typed Name	Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,032,808 B2

APPLICATION NO.: 10/906,598

ISSUE DATE : October 4, 2011

INVENTOR(S) : Mike Vargo; Jerry Chang

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:

Column 10, line 39, cancel the text beginning with "6. The method of claim 4, wherein" and ending with "a second codec." in column 10, line 51, and insert the following claims:

6. A method implemented in a server for dynamically changing a codec algorithm, comprising:

encoding in a gateway server a plurality of data packets in a voice data stream transmitted between the gateway server and a remote server over a computer network, wherein a first part of the voice data stream is encoded with a first codec;

detecting a change in network conditions; and

in response to detecting the change in network conditions: encoding in the gateway server a second part of the voice date stream with a second codec.

7. The method of claim 6, wherein each data packet in the voice data stream includes an indication of a codec.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Advent IP LLC
1652 48th Street
Brooklyn, NY 11204

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BERGMAN & SONG, LLP
P.O. BOX 400198
CAMBRIDGE MA 02140

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Ruan, Bu Qin	:	
Application No. 10/906,663	:	ON PETITION
Filed: March 1, 2005	:	
Attorney Docket No. T5000-0007-P001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/806,911.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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RICHARD C. PERITZ
3940 CORAL HILLS DRIVE
CORAL SPRINGS, FL 33065

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Richard C. PERITZ	:	
Application No. 10/906,966	:	DECISION ON PETITION
Filed: March 14, 2005	:	UNDER 37 CFR 1.181
Attorney Docket No.	:	

This is a decision on the petition, filed February 25, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED** as moot.

This application was held abandoned for failure to reply to the final Office action mailed May 8, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 23, 2010.

A review of the written record indicates the Office action mailed May 8, 2009 was incorrectly marked as a non-final rejection instead of final rejection. A response to that action was received June 2, 2009 and was noted as being an after final amendment. An advisory action was mailed on February 16, 2010, noting that the paper was not a proper response to a final rejection. On February 23, 2010, the application was held abandoned for failure to file a proper reply to a final rejection within the six month statutory time period.

A letter rescinding the abandonment of the above application was mailed on March 8, 2010. Accordingly, the petition to withdraw holding of abandonment is considered to be moot.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

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SUITE C-2
WASHINGTON DC 20007

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
Brusilovskiy, Arkadiy I. :
Application No. 10/906,991 : ON PETITION
Filed: March 15, 2005 :
Attorney Docket No. 226102212005 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1657 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/907,026	03/16/2005	Erland Max	0173.062.PCUS00	4026

65858 7590 06/16/2011

NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

EXAMINER	
COLEMAN, KEITH A	

ART UNIT	PAPER NUMBER
3741	

MAIL DATE	DELIVERY MODE
06/16/2011	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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NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

In re Application of:
MAX, ERLAND
Serial No. 10/907026
Filed: March 16, 2005
Docket: 0173.062.PCUS00
Title: ENERGY CONVERTER

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed March 12, 2010 under 37 CFR 1.181 requesting the Interview Summary mailed February 8, 2010 ("the Interview Summary") be expunged. In the petition, petitioner asserts that the Interview Summary contains insulting and derogatory comments and does not belong on the record and requests that it be expunged. The petition is being considered under 37 CFR 1.181 and no fee is required.

The petition is **dismissed as moot**.

Petitioner's requested relief has already occurred. The Interview Summary of Feb. 8, 2010 has been removed from the record and blocked from public view in the PAIR system. The petition is moot and is dismissed.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Sharon Gibson, Director
Technology Center 3700

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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Patent No. : 7,845,317 B2
Ser. No. : 10/907,026
Inventor(s) : Max et al.
Issued : Dec. 7, 2010
Title : ENERGY CONVERTER
Docket No. : 0173.062.PCUS00
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : September 23,2011

In re Application of :

Hassan Serhan

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10907231

Filed : 24-Mar-2005

Attorney Docket No : 101896-0316

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed September 23,201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 3733 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10907231
Filing Date	24-Mar-2005
First Named Inventor	Hassan Serhan
Art Unit	3733
Examiner Name	ELLEN HAMMOND
Attorney Docket Number	101896-0316
Title	LOW PROFILE SPINAL TETHERING DEVICES

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	/Lisa Adams/
Name	Lisa Adams
Registration Number	44238

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

MAILED
SEP 23 2011
OFFICE OF PETITIONS

In re Application of :
Serhan et al. :
Application No. 10/907,231 :
Filed: March 24, 2005 : ON APPLICATION FOR
Attorney Docket No. 101896-0316 : PATENT TERM ADJUSTMENT
Title: LOW PROFILE SPINAL :
TETHERING DEVICES :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(b)," filed September 20, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred thirty-eight (438) days, not three hundred seventy-nine (379) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for review of the patent term adjustment is **GRANTED-In-Part**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-0893 for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The fee set forth in 37 CFR 1.18(e) is required and will not be refunded. No additional fees are required.

On June 21, 2011, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 379 days. In response, applicants timely filed the instant request for reconsideration of the patent term adjustment.

Applicants contend that the PTA should be increased by 192 days based on the late mailing of an Office action after applicants'

filing of a Request for Continued Examination (RCE) on April 7, 2010. Applicants contend an Office action was not mailed until February 15, 2011; thus the PTA should be increased by 192 days.

Applicants' argument has been considered but is not persuasive. A review of the record shows that the Office timely responded to the April 7, 2010 response (RCE and amendment) with the mailing of the Notice of Non-Compliant Amendment on June 9, 2010. Applicants in essence argues that the Letter withdrawing the Notice of Non-Complaint Amendment of July 12, 2010 "withdrew" the Notice of June 9, 2010, and as such the Notice of June 9, 2010 should be treated as not having been issued for purposes of determining whether the issuance of the patent was delayed due to the failure of the USPTO to respond to applicants' reply of April 7, 2010 within four months after the date on which the reply was filed.

The vacatur of an Office action sets aside or withdraws any rejection, objection or requirement in an Office action, as well as the requirement that the applicant timely reply to the Office action to avoid abandonment under 35 U.S.C. § 133. The vacatur of an Office action signifies that the Office action has been set aside, voided, or withdrawn as of the date of the vacating Office action or notice. The vacatur of an Office action, however, does **not** signify that the vacated Office action is void *ab initio* and is to be treated as if the USPTO had never issued the Office action. The patent examination process provided for in 35 U.S.C. §§ 131 and 132 contemplates that Office actions containing rejections, objections or requirements will be issued, and that the applicant will respond to these Office action, "with or without amendment." (35 U.S.C. § 132(a)). The mere fact that an examiner or other USPTO employee upon further reflection determines that an Office action, or that a rejection, objection or requirement in an Office action, is not correct and must be removed does not warrant treating the Office action as void *ab initio* and as if the USPTO had never issued the Office action.

The USPTO appreciates that there may be situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these would be extremely rare situations, such as the issuance of an Office action or notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance of an Office

action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application. That is simply **not** the case in this situation.

Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term adjustment, the Notice entered on June 9, 2010, was properly used to determine whether the USPTO delayed the issuance of the above-identified patent by failing to respond to the reply of April 7, 2010 within four months from the filing of the reply under of 35 U.S.C. § 154(b)(1)(A)(ii) and 37 CFR 1.702(a)(2). *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 *Fed. Reg.* 54366 (Sept. 18, 2000) (final rule).

Applicants contend additional 78 and 55 day reductions are required for the submission of a supplemental reply in the form of an Information Disclosure Statement (IDS) in two separate instances on September 2, 2009 and June 1, 2010.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

A review of the record confirms that the supplemental reply in the form of IDS was not requested by the examiner nor did the IDS referenced contain a statement in accordance with 37 CFR 1.704(d). The IDS was submitted after the reply (request for

continued examination (RCE)) was submitted on June 16, 2009. Accordingly, an additional period of reduction of 78 days is required.

Further review of the record confirms that a 55 day reduction is required for the submission of the IDS on June 1, 2010 after the reply (RCE) was submitted on April 7, 2010.

Applicants' delay prior to the mailing of the Notice of Allowance is 253 days (66 + 78 + 54 + 55). Office delay prior to the mailing of the Notice of Allowance is 499 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 246 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
Attorney Advisor
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10907231 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10907231

Application Filing Date	03/24/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	499
A Delays	499	PTO Manual Adjustment	-133
B Delays	0	Applicant Delay (APPL)	120
C Delays	0	Total PTA (days)	246

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
176	09/22/2011		P028	Adjustment of PTA Calculation by PTO		55	0
175	09/22/2011		P028	Adjustment of PTA Calculation by PTO		78	0
154	06/21/2011		MN/=.	Mail Notice of Allowance			0
153	05/10/2011		IREV	Issue Revision Completed			0
152	05/10/2011		DVER	Document Verification			0
151	05/10/2011		N/=.	Notice of Allowance Data Verification Completed			0
149	05/09/2011		EX.A	Examiner's Amendment Communication			0
148	05/09/2011		CNTA	Allowability Notice			0
150	04/27/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
146	04/27/2011		LET.	Miscellaneous Incoming Letter			0
147	03/16/2011		IDSC	Information Disclosure Statement considered			0
145	03/16/2011		EIDS.	Electronic Information Disclosure Statement			0
144	03/16/2011		RCAP	Reference capture on IDS			0
143	03/16/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
142	02/15/2011		ELC_RVW	Electronic Review			0
141	02/15/2011		EML_NTF	Email Notification			0
140	02/15/2011		MCTNF	Mail Non-Final Rejection			0
139	02/10/2011		CTNF	Non-Final Rejection			0
133	07/13/2010		EML_NTR	Email Notification			0
132	07/12/2010		MA.IX	Mail of Withdraw of Informal Amendment Notice			0
131	07/08/2010		A.IX	Withdraw of Informal Amendment Notice			0
130	06/10/2010		ELC_RVW	Electronic Review			0
129	06/10/2010		EML_NTF	Email Notification			0
128	06/09/2010		MCPA-AMD	Mail Notice of Informal or Non-Responsive RCE Amendment			0
127	06/07/2010		CPA-AMD	RCE Amendment Informal or Non-Responsive			0
126	06/07/2010		FWDX	Date Forwarded to Examiner			0
138	06/01/2010		IDSC	Information Disclosure Statement considered			0
134	06/01/2010		A...	Response after Non-Final Action			0
125	06/01/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
122	06/01/2010		M844	Information Disclosure Statement (IDS) Filed			0
121	06/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
137	04/26/2010		IDSC	Information Disclosure Statement considered			0
120	04/26/2010		RCAP	Reference capture on IDS			0
119	04/26/2010		M844	Information Disclosure Statement (IDS) Filed			0
117	04/26/2010		EIDS.	Electronic Information Disclosure Statement			0
115	04/26/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
118	04/22/2010		RCAP	Reference capture on IDS			0
116	04/22/2010		M844	Information Disclosure Statement (IDS) Filed			0
112	04/08/2010		FWDX	Date Forwarded to Examiner			0
108	04/08/2010		ABN9	Disposal for a RCE / CPA / R129			0
136	04/07/2010		IDSC	Information Disclosure Statement considered			0
114	04/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
113	04/07/2010		RCAP	Reference capture on IDS			0
111	04/07/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
110	04/07/2010		M844	Information Disclosure Statement (IDS) Filed			0
109	04/07/2010		RCEX	Request for Continued Examination (RCE)			0
107	04/07/2010		BRCE	Workflow - Request for RCE - Begin			0
102	02/03/2010		ELC_RVW	Electronic Review			0
101	02/03/2010		EML_NTF	Email Notification			0
100	02/03/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
135	01/27/2010		IDSC	Information Disclosure Statement considered			0
106	01/27/2010	12/04/2009	M844	Information Disclosure Statement (IDS) Filed		54	93
105	01/27/2010		M844	Information Disclosure Statement (IDS) Filed			0
99	01/27/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
98	01/25/2010		CTFR	Final Rejection			0

104	01/15/2010		RCAP	Reference capture on IDS			0
103	01/15/2010		M844	Information Disclosure Statement (IDS) Filed			0
97	01/15/2010		IDSC	Information Disclosure Statement considered			0
95	01/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
94	12/10/2009		FWDX	Date Forwarded to Examiner			0
93	12/04/2009		A...	Response after Non-Final Action			0
89	09/04/2009		ELC_RVW	Electronic Review			0
88	09/04/2009		EML_NTF	Email Notification			0
86	09/04/2009		MCTNF	Mail Non-Final Rejection			0
96	09/02/2009		IDSC	Information Disclosure Statement considered			0
91	09/02/2009		RCAP	Reference capture on IDS			0
90	09/02/2009		EIDS.	Electronic Information Disclosure Statement			0
87	09/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
84	08/31/2009		CTNF	Non-Final Rejection			0
85	08/26/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
92	08/05/2009		M844	Information Disclosure Statement (IDS) Filed			0
83	08/05/2009		IDSC	Information Disclosure Statement considered			0
82	08/05/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
81	06/18/2009		FWDX	Date Forwarded to Examiner			0
79	06/18/2009		FWDX	Date Forwarded to Examiner			0
77	06/18/2009		ABN9	Disposal for a RCE / CPA / R129			0
80	06/16/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
78	06/16/2009		RCEX	Request for Continued Examination (RCE)			0
76	06/16/2009		BRCE	Workflow - Request for RCE - Begin			0
75	04/23/2009		ELC_RVW	Electronic Review			0
74	04/23/2009		EML_NTF	Email Notification			0
73	04/23/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
72	04/21/2009		CTFR	Final Rejection			0
71	03/30/2009		IDSC	Information Disclosure Statement considered			0
69	03/30/2009		RCAP	Reference capture on IDS			0
68	03/30/2009	01/23/2009	EIDS.	Electronic Information Disclosure Statement		66	63
67	03/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
64	03/04/2009		FWDX	Date Forwarded to Examiner			0
70	01/30/2009		IDSC	Information Disclosure Statement considered			0
66	01/30/2009		RCAP	Reference capture on IDS			0
65	01/30/2009		M844	Information Disclosure Statement (IDS) Filed			0
62	01/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
63	01/23/2009		A...	Response after Non-Final Action			0
61	11/13/2008		ELC_RVW	Electronic Review			0
60	11/13/2008		EML_NTF	Email Notification			0
59	11/13/2008		MCTNF	Mail Non-Final Rejection			0
58	11/07/2008		CTNF	Non-Final Rejection			0
54	10/28/2008		FWDX	Date Forwarded to Examiner			0
52	10/28/2008		FWDX	Date Forwarded to Examiner			0
50	10/28/2008		ABN9	Disposal for a RCE / CPA / R129			0
57	10/20/2008		IDSC	Information Disclosure Statement considered			0
56	10/20/2008		RCAP	Reference capture on IDS			0
55	10/20/2008		EIDS.	Electronic Information Disclosure Statement			0
53	10/20/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
51	10/20/2008		RCEX	Request for Continued Examination (RCE)			0
49	10/20/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
48	10/20/2008		BRCE	Workflow - Request for RCE - Begin			0
47	08/20/2008		ELC_RVW	Electronic Review			0
46	08/20/2008		EML_NTF	Email Notification			0
45	08/20/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
44	08/18/2008		CTFR	Final Rejection			0
43	06/11/2008		FWDX	Date Forwarded to Examiner			0
42	05/01/2008		A...	Response after Non-Final Action			0
41	03/04/2008		ELC_RVW	Electronic Review			0
40	03/01/2008		EML_NTF	Email Notification			0
39	02/29/2008		MCTNF	Mail Non-Final Rejection			0
38	02/19/2008		CTNF	Non-Final Rejection			0
37	02/19/2008		DOCK	Case Docketed to Examiner in GAU			0
36	12/07/2007		FWDX	Date Forwarded to Examiner			0
35	11/19/2007		A...	Response after Non-Final Action			0
34	11/19/2007		C614	New or Additional Drawing Filed			0
33	11/14/2007		DOCK	Case Docketed to Examiner in GAU			0
32	10/06/2007		ELC_RVW	Electronic Review			0
31	10/05/2007		EML_NTF	Email Notification			0
30	10/05/2007	05/24/2006	MCTNF	Mail Non-Final Rejection	499		0.5
29	10/01/2007		CTNF	Non-Final Rejection			0
21	06/20/2007		DOCK	Case Docketed to Examiner in GAU			0
20	03/17/2007		DOCK	Case Docketed to Examiner in GAU			0
28	07/27/2006		IDSC	Information Disclosure Statement considered			0
19	07/27/2006		RCAP	Reference capture on IDS			0
18.7	07/27/2006		M844	Information Disclosure Statement (IDS) Filed			0
18	07/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
17	07/26/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
27	07/25/2006		IDSC	Information Disclosure Statement considered			0
25	07/25/2006		IDSC	Information Disclosure Statement considered			0
16	07/25/2006		RCAP	Reference capture on IDS			0
15.7	07/25/2006		EIDS.	Electronic Information Disclosure Statement			0
14.7	07/25/2006		EIDS.	Electronic Information Disclosure Statement			0
14	07/25/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
26	09/01/2005		IDSC	Information Disclosure Statement considered			0
13	09/01/2005		RCAP	Reference capture on IDS			0
12.7	09/01/2005		M844	Information Disclosure Statement (IDS) Filed			0
12	09/01/2005		WIDS	Information Disclosure Statement (IDS) Filed			0

11	06/02/2005	WROIPE	Application Return from OIPE	0
10	06/02/2005	COMP	Application Is Now Complete	0
9	06/02/2005	ROIPE	Application Return TO OIPE	0
8	06/01/2005	OIPE	Application Dispatched from OIPE	0
7	06/01/2005	COMP	Application Is Now Complete	0
6	05/23/2005	FLFEE	Payment of additional filing fee/Preexam	0
5	05/23/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
4	04/07/2005	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	04/05/2005	L194	Cleared by OIPE CSR	0
2	03/24/2005	SCAN	IFW Scan & PACR Auto Security Review	0
1	03/24/2005	IEXX	Initial Exam Team nn	0
0.5	03/24/2005	EFILE	Filing date	0

Export to: Excel

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NEW BRUNSWICK NJ 08933-7003

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,909,826	:	DECISION ON REQUEST FOR
SERHAN et al.	:	RECONSIDERATION OF
Issue Date: 03/22/2011	:	PATENT TERM ADJUSTMENT
Application No. 10/907,232	:	AND
Filed: 03/24/2005	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 101896-0325	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred eighteen (618) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred eighteen (618) days is **GRANTED**.

The Office will charge the requisite $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the petition under 37 CFR 1.705(d) to the Deposit Account as authorized. 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 **six hundred eighteen (618) 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 : 7,909,826 B2

DATED : Mar. 22, 2011 **DRAFT**

INVENTOR(S) : Serhan 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 607 days.

Delete the phrase "by 607 days" and insert – by 618 days--

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	10907233
Filing Date	24-Mar-2005
First Named Inventor	Hassan Serhan
Art Unit	3733
Examiner Name	STEVEN COTRONEO
Attorney Docket Number	101896-0326
Title	LOW PROFILE SPINAL TETHERING SYSTEMS

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	/Lisa Adams/
Name	Lisa Adams
Registration Number	44238

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : September 23,2011

In re Application of :

Hassan Serhan

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10907233

Filed : 24-Mar-2005

Attorney Docket No : 101896-0326

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed September 23,201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 3733 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of :
Serhan, et al. :
Application No. 10/907,233 : DECISION ON APPLICATION
Filed: March 24, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **101896-0326** :

This is in response to the "Application for Patent Term Adjustment Pursuant to 37 CFR 1.705(b)" filed September 20, 2011. Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from four hundred and twenty-nine (429) days to five hundred and eighteen (518) days.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred and eighty-three(483) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On June 24, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 429 days. On September 20, 2011, applicants submitted the instant petition. Applicants maintain 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 518 days.

A review of the application file history reveals that reductions to the patent term adjustment are warranted for the filing of

supplemental papers in the form of Information Disclosure Statements (IDS) on June 5, 2008, March 20, 2009, and June 1, 2010. On June 5, 2008, 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 May 1, 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 June 5, 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. **Accordingly, the period of adjustment should have been reduced by 35 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 2, 2008, and ending on the date that the IDS was filed, June 5, 2008. Accordingly, a period of reduction of 35 days is being entered.**

On March 30, 2009, 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 February 24, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed March 30, 2009, reveals that applicant did not include a statement under 37 CFR 1.704(d). Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. **Accordingly, the period of adjustment should have been reduced by 34 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, February 25, 2009, and ending on the date that the IDS was filed, March 30,**

---

[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.

2009. Accordingly, a period of reduction of 34 days is being entered.

On June 1, 2010[2], 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 April 7, 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 June 1, 2010, reveals that applicant did not include a statement under 37 CFR 1.704(d). Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. **Accordingly, the period of adjustment should have been reduced by 55 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, April 8, 2010, and ending on the date that the IDS was filed, June 1, 2010. Accordingly, a period of reduction of 55 days is being entered.**

It is noted that an adjustment of 24 days to the patent term was made pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2) for the mailing of a non-final Office action on June 23, 2009. This adjustment to the patent term is not warranted. A review of the application file history reveals that a Request for Continued Examination was filed on February 24, 2009, not January 30, 2009, as indicated in PALM Office records. The mailing of the non-final Office action on June 23, 2009, was within the four month period set forth in 37 CFR 1.702(a)(2). Thus, no adjustment to the patent term was warranted in this instance. **The period of adjustment of 24 days is being removed, accordingly.**

Finally, it is noted that entry of a period of adjustment of 202 days under 37 CFR 1.702(a)(2) is warranted for the mailing of an Office action on February 25, 2011, four months and 202 days after a Request for Continued Examination was filed on April 7, 2010. **A period of adjustment of 202 days is being entered accordingly.**

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[2] It is noted that IDS were also filed on April 22, 2010, and April 26, 2010, which would subject the application to a reduction to the patent term adjustment under 37 CFR 1.704(c)(8). These periods of reduction to the patent term adjustment completely overlap with the period of reduction being entered for the IDs filed June 1, 2010. Accordingly, only the period of reduction of 55 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 483 days. (721 days of Office delay - 238 days of applicant delay).

The $200.00 fee set forth under 37 CFR 1.18(e) will be charged to deposit account 14-1449.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

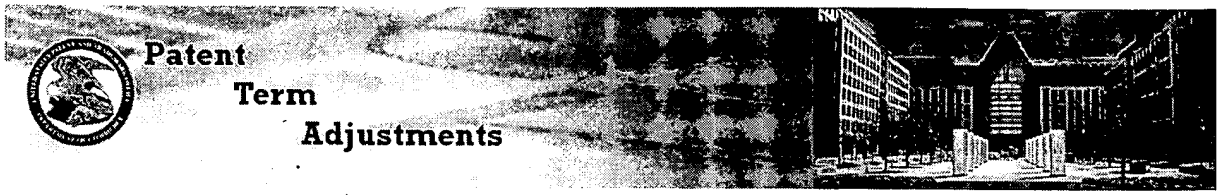
The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10907233 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10907233

Application Filing Date	03/24/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	543
A Delays	543	PTO Manual Adjustment	54
B Delays	0	Applicant Delay (APPL)	114
C Delays	0	Total PTA (days)	483

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
185	09/23/2011		P028	Adjustment of PTA Calculation by PTO	54	0	
172	06/24/2011		MN/=.	Mail Notice of Allowance		0	
171	06/21/2011		OAR	Office Action Review		0	
170	06/21/2011		IREV	Issue Revision Completed		0	
169	06/21/2011		DVER	Document Verification		0	
168	06/21/2011		N/=.	Notice of Allowance Data Verification Completed		0	
167	06/16/2011		CNTA	Allowability Notice		0	
166	06/16/2011		INHY	case Inherited		0	
165	06/16/2011		DOCK	Case Docketed to Examiner in GAU		0	
163	05/24/2011		EML_NTR	Email Notification		0	
160	05/24/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
162	05/20/2011		FWDX	Date Forwarded to Examiner		0	
161	05/18/2011		A...	Response after Non-Final Action		0	
159	05/18/2011		OAR	Office Action Review		0	
158	05/18/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
164	03/16/2011		IDSC	Information Disclosure Statement considered		0	
157	03/16/2011		EIDS.	Electronic Information Disclosure Statement		0	
156	03/16/2011		WIDS	Information Disclosure Statement (IDS) Filed		0	
155	02/25/2011		ELC_RVW	Electronic Review		0	
154	02/25/2011		EML_NTF	Email Notification		0	
153	02/25/2011		MCTNF	Mail Non-Final Rejection		0	
152	02/22/2011		CTNF	Non-Final Rejection		0	
146	07/13/2010		EML_NTR	Email Notification		0	
145	07/12/2010		MA.IX	Mail of Withdraw of Informal Amendment Notice		0	
144	07/08/2010		A.IX	Withdraw of Informal Amendment Notice		0	
143	06/10/2010		ELC_RVW	Electronic Review		0	
142	06/10/2010		EML_NTF	Email Notification		0	
140	06/09/2010		MCPA-AMD	Mail Notice of Informal or Non-Responsive RCE Amendment		0	
139	06/07/2010		CPA-AMD	RCE Amendment Informal or Non-Responsive		0	
138	06/07/2010		FWDX	Date Forwarded to Examiner		0	
150	06/01/2010		IDSC	Information Disclosure Statement considered		0	
147	06/01/2010		A...	Response after Non-Final Action		0	
141	06/01/2010		M844	Information Disclosure Statement (IDS) Filed		0	
137	06/01/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
136	06/01/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
151	04/26/2010		IDSC	Information Disclosure Statement considered		0	
135	04/26/2010		RCAP	Reference capture on IDS		0	
134	04/26/2010		M844	Information Disclosure Statement (IDS) Filed		0	
131	04/26/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
133	04/22/2010		RCAP	Reference capture on IDS		0	
132	04/22/2010		M844	Information Disclosure Statement (IDS) Filed		0	
127	04/08/2010		FWDX	Date Forwarded to Examiner		0	
124	04/08/2010		ABN9	Disposal for a RCE / CPA / R129		0	
149	04/07/2010		IDSC	Information Disclosure Statement considered		0	
130	04/07/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
129	04/07/2010		RCAP	Reference capture on IDS		0	
128	04/07/2010		M844	Information Disclosure Statement (IDS) Filed		0	
126	04/07/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
125	04/07/2010		RCEX	Request for Continued Examination (RCE)		0	
123	04/07/2010		BRCE	Workflow - Request for RCE - Begin		0	
120	01/19/2010		ELC_RVW	Electronic Review		0	
119	01/19/2010		EML_NTF	Email Notification		0	
117	01/19/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
148	01/15/2010		IDSC	Information Disclosure Statement considered		0	
122	01/15/2010		RCAP	Reference capture on IDS		0	

121	01/15/2010	09/23/2009	M844	Information Disclosure Statement (IDS) Filed		114	110
118	01/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
116	01/13/2010		CTFR	Final Rejection			0
111	11/03/2009		FWDX	Date Forwarded to Examiner			0
110	09/23/2009		A...	Response after Non-Final Action			0
114	09/02/2009		IDSC	Information Disclosure Statement considered			0
109	09/02/2009		RCAP	Reference capture on IDS			0
108	09/02/2009		M844	Information Disclosure Statement (IDS) Filed			0
107	09/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
115	08/05/2009		IDSC	Information Disclosure Statement considered			0
113	08/05/2009		RCAP	Reference capture on IDS			0
112	08/05/2009		M844	Information Disclosure Statement (IDS) Filed			0
106	08/05/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
105	06/23/2009		ELC_RVW	Electronic Review			0
104	06/23/2009		EML_NTF	Email Notification			0
103	06/23/2009	05/30/2009	MCTNF	Mail Non-Final Rejection	24		93
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99	03/30/2009		RCAP	Reference capture on IDS			0
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97	03/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
96	03/05/2009		FWDX	Date Forwarded to Examiner			0
94	03/05/2009		FWDX	Date Forwarded to Examiner			0
92	03/05/2009		ABN9	Disposal for a RCE / CPA / R129			0
91	03/02/2009		EML_NTR	Email Notification			0
90	03/02/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
95	02/24/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
88	02/24/2009		BRCE	Workflow - Request for RCE - Begin			0
87	02/24/2009		RCAP	Reference capture on IDS			0
89	02/18/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
100	01/30/2009		IDSC	Information Disclosure Statement considered			0
93	01/30/2009		RCEX	Request for Continued Examination (RCE)			0
86	01/30/2009		M844	Information Disclosure Statement (IDS) Filed			0
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82	12/24/2008		EML_NTF	Email Notification			0
81	12/24/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
80	12/22/2008		CTFR	Final Rejection			0
75	10/17/2008		FWDX	Date Forwarded to Examiner			0
79	10/10/2008		IDSC	Information Disclosure Statement considered			0
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72	09/17/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
71	07/10/2008		ELC_RVW	Electronic Review			0
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68	07/07/2008		CTNF	Non-Final Rejection			0
61	06/19/2008		FWDX	Date Forwarded to Examiner			0
59	06/19/2008		FWDX	Date Forwarded to Examiner			0
57	06/19/2008		ABN9	Disposal for a RCE / CPA / R129			0
60	06/16/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
58	06/16/2008		RCEX	Request for Continued Examination (RCE)			0
56	06/16/2008		BRCE	Workflow - Request for RCE - Begin			0
66	06/05/2008		RCAP	Reference capture on IDS			0
65	06/05/2008		M844	Information Disclosure Statement (IDS) Filed			0
64	06/05/2008		IDSC	Information Disclosure Statement considered			0
63	06/05/2008		IDSC	Information Disclosure Statement considered			0
62	06/05/2008		IDSC	Information Disclosure Statement considered			0
54	06/05/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
53	06/05/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
52	05/17/2008		EML_NTR	Email Notification			0
51	05/15/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
50	05/12/2008		CTAV	Advisory Action (PTOL-303)			0
49	05/06/2008		FWDX	Date Forwarded to Examiner			0
48	05/01/2008		A.NE	Amendment after Final Rejection			0
47	03/19/2008		ELC_RVW	Electronic Review			0
46	03/18/2008		EML_NTF	Email Notification			0
45	03/18/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
44	03/03/2008		CTFR	Final Rejection			0
43	03/03/2008		DOCK	Case Docketed to Examiner in GAU			0
42	12/28/2007		FWDX	Date Forwarded to Examiner			0
41	12/12/2007		A...	Response after Non-Final Action			0
40	12/12/2007		C614	New or Additional Drawing Filed			0
39	10/26/2007		ELC_RVW	Electronic Review			0
38	10/25/2007		EML_NTF	Email Notification			0
37	10/25/2007	05/24/2006	MCTNF	Mail Non-Final Rejection	519		0.5
36	10/22/2007		CTNF	Non-Final Rejection			0
35	10/22/2007		DOCK	Case Docketed to Examiner in GAU			0
29	10/17/2007		W525	Withdraw Flagged for 5/25			0
28	10/16/2007		F525	Flagged for 5/25			0
26	06/20/2007		DOCK	Case Docketed to Examiner in GAU			0
25	03/17/2007		DOCK	Case Docketed to Examiner in GAU			0
30	07/27/2006		IDSC	Information Disclosure Statement considered			0
24	07/27/2006		RCAP	Reference capture on IDS			0
23.7	07/27/2006		M844	Information Disclosure Statement (IDS) Filed			0

23	07/27/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
22	07/26/2006	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
31	07/25/2006	IDSC	Information Disclosure Statement considered	0
21	07/25/2006	RCAP	Reference capture on IDS	0
20.7	07/25/2006	EIDS.	Electronic Information Disclosure Statement	0
20	07/25/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
32	09/01/2005	IDSC	Information Disclosure Statement considered	0
19	09/01/2005	RCAP	Reference capture on IDS	0
18.7	09/01/2005	M844	Information Disclosure Statement (IDS) Filed	0
18	09/01/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
16	06/07/2005	COMP	Application Is Now Complete	0
17	06/06/2005	WROIPE	Application Return from OIPE	0
15	06/06/2005	ROIPE	Application Return TO OIPE	0
14	06/06/2005	WROIPE	Application Return from OIPE	0
13	06/06/2005	COMP	Application Is Now Complete	0
12	06/06/2005	ROIPE	Application Return TO OIPE	0
10	06/01/2005	COMP	Application Is Now Complete	0
11	05/31/2005	WROIPE	Application Return from OIPE	0
9	05/31/2005	ROIPE	Application Return TO OIPE	0
8	05/31/2005	OIPE	Application Dispatched from OIPE	0
7	05/31/2005	COMP	Application Is Now Complete	0
6	05/19/2005	FLFEE	Payment of additional filing fee/Preexam	0
5	05/19/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
4	04/07/2005	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	04/05/2005	L194	Cleared by OIPE CSR	0
2	03/24/2005	SCAN	IFW Scan & PACR Auto Security Review	0
1	03/24/2005	IEXX	Initial Exam Team nn	0
0.5	03/24/2005	EFILE	Filing date	0

Export to: Excel

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30 AUG 2010

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

In re Application of :
BAGWELL, Rick, et al. :
U.S. Application No.: 10/907,300 :
Filing Date: 28 March 2005 : DECISION
Attorney Docket No.: T4338-14453US02 :
For: REAL-TIME CONTROL OF :
EXHAUST FLOW :

This is a decision on the petition under 37 CFR 1.78(a)(6) to accept unintentionally delayed claim for priority filed 23 November 2009.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

A petition for acceptance of a claim for late priority 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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 119(e) and 37 CFR 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)(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 petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an application data sheet, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 questions concerning this matter may be directed to Erin Thomson at (571) 272-3292. 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 3749 for appropriate action, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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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
10/907,300	03/28/2005	3749	1130	T4338-14453US02	1	1

CONFIRMATION NO. 4300

CORRECTED FILING RECEIPT

181
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

Date Mailed: 08/30/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Rick Bagwell, Scottsville, KY;
Derek Schrock, Bowling Green, KY;
Andrey Livchak, Bowling Green, KY;

Power of Attorney: The patent practitioners associated with Customer Number 000181

Domestic Priority data as claimed by applicant

This application is a CIP of 10/344,505 06/11/2003 PAT 6,899,095
which is a 371 of PCT/US01/25063 08/10/2001
which claims benefit of 60/263,557 01/23/2001
This application 10/907,300
claims benefit of 60/590,889 07/23/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/907,300**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

REAL-TIME CONTROL OF EXHAUST FLOW

Preliminary Class

126

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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YARON MAYER
21 AHAD HAAM ST.
JERUSALEM 92151 IL ISRAEL

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
MAYER	:	
Application No. 10/907,672	:	DECISION ON PETITION
Filed: April 12, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed, April 8, 2009, which set a reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply to an Amendment, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to 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 signed by Batya Barhon is acknowledged, however, cannot be accepted. In this regard, proof of the deceased inventor is needed. Proof maybe in the form of a death

certificate or any other certification that could be used to make a determination as to legal representation (executor, administrator, etc.). See 37 CFR 1.32.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2435 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: IRA J. SCHULTZ
DENNISON, SCHULTZ & MACDONALD
1727 KING STREET, SUITE 105
ALEXANDRIA, VA 22314

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of Bowers :
Application No. 10/907,759 : Letter
Filing Date: April 14, 2005 :
Attorney Docket No. 28489/41021 :

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed March 4, 2011.

The deficiency payment of $849 is hereby accepted.[1]

The change of status to large entity has been entered and made of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] The request states a total fee deficiency of $840 is owed in this case. However, a check in the amount of $849 was filed with the request. Since the Office does not *sua sponte* refund monetary amounts less than $25, the Office does not need to determine if the correct deficiency owed is $840 or $849.

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AUG 19 2010

OFFICE OF PETITIONS

SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

In re Application of
Alexander Luccisano, et al.
Application No. 10/907,799
Filed: April 15, 2005
Attorney Docket No.: A-10504

ON PETITION

This is a decision on the petition, filed June 18, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Gary J. Pitzer 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. . If Mr. Pitzer 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. Pitzer; however, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 28, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 28, 2010. A Notice of Abandonment was mailed on May 17, 2010. In response, on June 18, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and publication fee of $300; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

It is noted that the petitioner has also filed a request for refund of the petition fee, noting that the petition was necessitated because of UPTO error. Petitioner argues that since the UPSPO failed to change the correspondence address associated with the customer number noted in a Power of Attorney and Statement Under 37 CFR 3.73(b) filed April 22, 2009, the Notice of Allowance

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

was mailed to an incorrect correspondence address. Accordingly, petitioner requests that the petition fee not be required.

A review of the record discloses that the Power of Attorney and Statement Under 37 CFR 3.73(b) in question did not operate to change the power of attorney or the correspondence address in this application, as it was directed to Application No. 10/907,791, not the present application. Accordingly, the Notice of Allowance was mailed to the address of record at the time and the application was properly held abandoned by operation of law. Consequently, the petition to revive and fee are necessary to overcome abandonment and the petition fee will **not** be refunded.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GARY J. PITZER
1300 EAST NINTH STREET – SUITE 1700
CLEVELAND, OH 44114

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)
7,166,513	2007-01-23	10/907,829	2005-04-18	LKSP0148USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-05
Name	Winston Hsu	Registration Number	41526

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. 7166513
Issue Date: January 23,2007
Application No. 10907829
Filed: April 18,2005
Attorney Docket No. 11040-US-PA-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 5,2012 ,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 5,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,057,940	2006-06-06	10/907,830	2005-04-18	LKSP0124USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-05
Name	Winston Hsu	Registration Number	41526

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. 7057940
Issue Date: June 6,2006
Application No. 10907830
Filed: April 18,2005
Attorney Docket No. 11040-US-PA-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 5,2012 ,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 5,2012 .
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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Tyco Healthcare Group LP
d/b/a Covidien
555 Long Wharf Drive
Mail Stop 8-N1, Legal Department
New Haven CT 06511

MAILED
MAR 18 2011
OFFICE OF PETITIONS

In re Application of :
SHIPP, John I. :
Application No. 10/907,834 : DECISION ON PETITION
Filed: April 18, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. H-US-01161 (203-6226) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 9, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petitions are **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.

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 Jose' G Dees at (571) 272-1569.

Christopher Bottorff
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
10/907,834	04/18/2005	3731	1005	H-US-01161 (203-6226)	32	4

CONFIRMATION NO. 4834

CORRECTED FILING RECEIPT

50855
Tyco Healthcare Group LP
d/b/a Covidien
555 Long Wharf Drive
Mail Stop 8-N1, Legal Department
New Haven, CT 06511

Date Mailed: 03/17/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John I. Shipp, Ponte Vedra Beach, FL;

Power of Attorney: The patent practitioners associated with Customer Number 50855

Domestic Priority data as claimed by applicant

This application is a CIP of 10/905,020 12/10/2004 ABN
and is a CIP of 10/709,297 04/27/2004 PAT 7,758,612

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 04/25/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/907,834**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Absorbable Anchor for Hernia Mesh Fixation

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7285031	2007-10-23	10907879	2005-04-19	PROBOX-001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jay L Politzer/	Date (YYYY-MM-DD)	2011-12-28
Name	Jay L Politzer	Registration Number	56091

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. 7285031
Issue Date: October 23,2007
Application No. 10907879
Filed: April 19,2005
Attorney Docket No. PROBOX-001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 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 December 28,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 10/07/2010

Applicant	: Yen-Ming Chen	: DECISION ON REQUEST FOR
Patent Number	: 7652893	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/908,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **85** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO IL 60654-4746

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Stephen William Anthony Sanders et al. :
Application No. 10/908,207 : DECISION ON PETITION
Filed: May 2, 2005 : TO WITHDRAW
Attorney Docket No. **213291-30002** : 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 17, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Nancy J. Leith on behalf of all attorneys of record who are associated with Customer Number 69139.

All attorneys/agents associated with Customer Number 69139 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Stephen Sanders at the address indicated below.

There is no outstanding Office action mailed that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Mr. Stephen Sanders
1921 Cooper Road
Sebastopol, CA 95472

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/908,207	05/02/2005	Stephen William Anthony Sanders	213291-30002

CONFIRMATION NO. 5207

69139
LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO, IL 60654-4746

POWER OF ATTORNEY NOTICE

OC000000049681963

Date Mailed: 09/06/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/17/2011.

- 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.

/jlburke/

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)
7161364	2007-01-09	10908327	2005-05-06	N60-009

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/George A Herbster/	Date (YYYY-MM-DD)	2011-01-14
Name	George A Herbster	Registration Number	24002

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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In re Patent No. 7161364
Issue Date: January 9,2007
Application No. 10908327
Filed: May 6,2005
Attorney Docket No. N60-009

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 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 January 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
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JOSEPH P. CURTIN
1469 N.W. MORGAN LANE
PORTLAND, OR 97229

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,396,318 :
Issue Date: July 8, 2008 :
Application No. 10/908,470 : NOTICE
Filed: May 12, 2005 :
Patentee(s): Jeffry L. VanElverdinghe, et. al. :

This is a Notice regarding your "LETTER TO WITHDRAW SMALL ENTITY STATUS 37 CFR 1.28(c)" filed on August 24, 2011, which is being treated a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of John R. Dawson appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. A courtesy copy of this Notice is being mailed to the address given in the present request. Thereafter, all future communications from the Office will be directed to the address of record unless otherwise instructed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: John R. Dawson
Harness, Dickey & Pierce, P.L.C.
111 SW Columbia Street, Suite 710
Portland, OR 97226

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Application of :
Larry A. Westerman :
Application No. 10/908,545 : DECISION ON PETITION
Filed: May 16, 2005 TO WITHDRAW FROM RECORD
Attorney Docket No. 3301-0001 :
:

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 18, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on February 22, 2011 the power of attorney to Black Lowe & Graham, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/15/11

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10908584 Patent No.: 7591806

CofC mailroom date: 07/08/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should 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.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

3703

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARTMAN & HARTMAN, P.C.
552 EAST 700 NORTH
VALPARAISO IN 46383

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,410,490 :
Issue Date: August 12, 2008 :
Application No. 10/908,649 : DECISION ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. A5-1945 :

This is a decision on the renewed petition filed August 6, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent that is being considered under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-4584. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)756-1556.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, Randolph Square Building, 9th Floor, 09/D30-B
FAX No. (571) 270-9753

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/11

TO SPE OF : ART UNIT 3716

SUBJECT : Request for Certificate of Correction for Appl. No.: 10908688 Patent No.: 8025566

CofC mailroom date: 11/09/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should the changes to claim 1 and 4 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

3716

SPE **Art Unit**

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,098,124	2006-08-29	10/908,871	2005-05-31	LKSP0133USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-06
Name	Winston Hsu	Registration Number	41526

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. 7098124
Issue Date: August 29,2006
Application No. 10908871
Filed: May 31,2005
Attorney Docket No. 14530-US-PA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 6,2012 ,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 6,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7115865
Issue Date: October 3,2006
Application No. 10908953
Filed: June 1,2005
Attorney Docket No. LKSP0053USA

:
: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)
7,115,865	2006-10-03	10/908,953	2005-06-01	LKSP0053USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-03
Name	Winston Hsu	Registration Number	41526

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of :
Aggarwal et al. :
Application No. 10/909,151 :
Filed: July 30, 2004 :
Attorney Dkt. No. 15926US01 :
For: TERTIARY CONTENT ADDRESSABLE MEMORY BASED MOTION ESTIMATOR :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE 37 CFR 1.705" filed November 5, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from six hundred seventy-two (672) days to nine hundred eighty (980) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of attorney Dalal appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, attorney Dalal 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 attorney Dalal, the petitioner herein.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Constellation Law Group, PLLC
P.O. Box 220
Tracyton WA 98393

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Application of :
Edward K.Y. Jung, et al. :
Application No. 10/909,200 : DECISION ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. SE1-0025-US :

This is a decision on the petition, filed June 8, 2010, which is being treated as a petition under 37 CFR 1.8(a), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 17, 2009, which set a (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 17, 2010, or on or before May 17, 2010, with a three-month extension of time. A Notice of Abandonment was mailed on May 24, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on May 17, 2010, which included the following papers: a response/amendment and a request for three (3) month extension of time.

The file record includes the originally submitted papers. However, the papers were received at the Office on May 21, 2010 with a certificate of mailing of May 17, 2010, which renders the response timely.

Failure to timely receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(a), reproduced below:

Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed

in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or

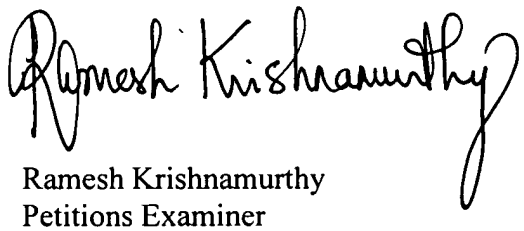
(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The petition satisfies the above requirements of 37 CFR 1.8(a). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of November 17, 2009 is hereby withdrawn and the application restored to pending status.

Telephone inquires regarding this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2165 for appropriate action in the normal course of business on the amendment filed on May 21, 2010.



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

NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,266,884 :
Issued: September 11, 2007 :
Application No. 10/909,284 : ON PETITION
Filed: August 3, 2004 :
Attorney Docket No. 839-1502 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 16, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 13, 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.

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.

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: Dale J. Davis
General Electric Company
1 River Road
Schenectady, NY 12345

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.
10/909,316	08/03/2004	Kazushi Oshino	256811US0	6666

22850 7590 02/07/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
ROBERTS, LEZAH	
ART UNIT	PAPER NUMBER
1612	

NOTIFICATION DATE	DELIVERY MODE
02/07/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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.
10909316	03 August 2004	OSHINO ET AL.	256811US0

EXAMINER

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

ART UNIT	PAPER
	20110203-1

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The fee of $180.00 for the Ids filed on 06/23/2010 will not be refunded. The examiner allowed the application and considered the Ids dated 06/23/2010 & After final amendment dated 02/27/2010 in the notice of allowability that was mailed on 10/12/2010.

/Brenda Gray/
Brenda Gray

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FERNANDEZ & ASSOCIATES, LLP
P.O. BOX D
MENLO PARK CA 94026

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Vavul et al.	:	DECISION ON PETITION
Application No. 10/909,337	:	TO WITHDRAW
Filed: August 3, 2004	:	FROM RECORD
Attorney Docket No. EZREZ-P004	:	

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 16, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Dennis S. Fernandez on behalf of all attorneys/agents of record who are associated with Customer Number 22877. All attorneys/agents associated with Customer Number 22877 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee of record, ezRez Software, Inc., at the address indicated below.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: EZREZ SOFTWARE, INC.
701 MONTGOMERY ST, 17TH FLOOR
SAN FRANCISCO CA 94111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/24/11

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10909435 Patent No.: 7201734

CofC mailroom date: 05/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director/SPE response to 571-273-3421

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.

v Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: Approved - All changes apply. _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Tan-Uyen Ho/

(Jackie) Tan-Uyen Ho SPE
Art Unit 3763

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.
10/909,811	08/02/2004	Chen-Chih Huang	251806-1150	6718

24504 7590 09/01/2010

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

EXAMINER	
FLORES, LEON	

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
09/01/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100823

DATE : August 23, 2010

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7483688

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,070,412	:	
Issue Date: July 04, 2006	:	
Application No. 10/909,816	:	DECISION ON PETITION
Filed: August 02, 2004	:	
Attorney Docket No. 21270-0004	:	

This is a decision on the under 37 CFR 1.378(c), filed August 27, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 04, 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: **RYAN SCHNEIDER**
TROUTMAN SANDERS, LLP
BANK OF AMERICA PLAZA
600 PEACHTREE STREET NE, SUITE 5200
ATLANTA, GA 30308--223

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

SEP 15 2010

OFFICE OF PETITIONS

In re Patent No: 7,108,396 :
Issued: September 19, 2006 :
Application No. 10/909,933 : ON PETITION
Filed: August 2, 2004 :
Attorney Docket No. PERMLT.021C1C :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
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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Don D. Cha
225 Union Blvd
Suite 150
Lakewood CO 80228

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of :
William J. Roberts :
Application No. 10/910,548 : ON PETITION
Filed: August 2, 2004 :
Attorney Docket No. BTL-000300US :

This is a decision on the petition filed August 30, 2011 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, March 25, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 26, 2010. A Notice of Abandonment was mailed on October 6, 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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1615 for appropriate action by the Examiner in the normal course of business on the reply received August 30, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Don D. Cha
547 Buena Vista Road
Golden, CO 80401

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Yu-Fei Ma, et al.	:	
Application No. 10/910,803	:	DECISION GRANTING PETITION
Filed: August 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-2099US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 29, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 29, 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 AU2193 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
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P.O. Box 1450
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In re Patent No. 7040750
Issue Date: May 9,2006
Application No. 10910846
Filed: August 4,2004
Attorney Docket No. ELTE 02846 PTUS

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 28,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 28,2010 . 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)
7040750	2006-05-09	10910846	2004-08-04	103731.010100

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Barry J. Schindler/	Date (YYYY-MM-DD)	2010-09-28
Name	Barry J. Schindler	Registration Number	32938

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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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Application of :
Joon-Hak Oh, et al. :
Application No.: 10/910,851 : ON PETITION
Filed: August 4, 2004 :
Attorney Docket No.: 8054L-71 (LW9128US/CS) :

This is a decision on the petition, filed August 26, 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 20, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/910,910	08/03/2004	Steven R. Norsworthy	04-DS-084	8586

30425 7590 05/04/2011

STMICROELECTRONICS, INC.
MAIL STATION 2346
750 CANYON DRIVE, SUITE 300
COPPELL, TX 75019

EXAMINER	
CORRIELUS, JEAN B	

ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
05/04/2011	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):

angie.rodriguez@st.com
ip.us@st.com

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAIL

MAY 03 2011

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STMICROELECTRONICS, INC.
MAIL STATION 2346
750 CANYON DRIVE, SUITE 300
COPPELL TX 75019

In re Application of:
Steven R. Norsworthy, et al.
Application Serial No.: 10/910,910
Filed: August 3, 2004
For: **NOISE SHAPED INTERPOLATOR AND DECIMATOR APPARATUS AND METHOD**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed October 4, 2010 for the purpose of entering of entering an Affidavit filed under 37 CFR 1.132.

On April 8, 2009 the examiner requested a copy of the reference cited in applicants' instant specification;

On September 25, 2009 examiner used the reference in a rejection;

On December 28, 2009 applicants response to the office action included an explanation that the reference submitted erroneously included a copy informal drawings of the instant application appended thereto.

On February 19, 2010 examiner repeated the rejection and made the office action Final. The copy of the reference still included the erroneous drawings.

On May 21, 2010 applicants submitted a Notice of appeal and an Affidavit under 37 CFR 1.132. The affidavit repeating the argument that the drawings being relied upon were not part of the reference and supplying a correct copy of the reference.

On October 1, 2010 examiner held the affidavit to be untimely.

Application went to Appeal.

Notwithstanding applicants' error in submitting a bad copy of the reference, it is clear from the record that the reference does not include the drawings that the examiner relied upon in making the rejection.

Accordingly, the petition is **GRANTED**.

The file is being forwarded to the examiner for treatment of the 37 CFR 1.132 affidavit filed May 21, 2010.

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications

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: 060565B1	Patent Number: 7,668,541
Filing Date (or 371(b) or (f) Date): 8-4-2004	Issue Date: 2-23-2010
First Named Inventor: ALAN O'NEILL	
Title: ENHANCED TECHNIQUES FOR USING CORE BASED NODES FOR STATE TRANSFER	

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 08-16-2010
Name (Print/Typed) Kam T. Tam	Registration Number 35756

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/25/2010

Applicant	: Alan O'Neill	: DECISION ON REQUEST FOR
Patent Number	: 7668541	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/910,960	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **914** 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.:20100916

DATE : September 16, 2010

TO SPE OF : ART UNIT 3629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,668,726 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Jamisue Plucinski **Art Unit** 3629

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STEPTOE & JOHNSON, LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES, CA 90067

Mail Date: 06/07/2011

Applicant	: Andrew John Cardno	: DECISION ON REQUEST FOR
Patent Number	: 7668726	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/910,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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OCT 2 2 2010

OFFICE OF PETITIONS

In re Patent No. 7,662,816 : DECISION ON
Cumming, et al. : REQUEST FOR RECONSIDERATION
Application No. 10/910,987 : of PATENT TERM ADJUSTMENT
Issue Date: February 16, 2010 : and
Filed: August 4, 2004 : NOTICE OF INTENT TO ISSUE
Attorney Docket No. CN06095US01 : CERTIFICATE OF CORRECTION

This is a decision on the "Response to Decision on Request for Recalculation of PTA in view of Wyeth", filed May 11, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent be extended.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

On February 16, 2010, the instant application matured into U.S. Patent No. 7,638,537 with a patent term adjustment of three hundred thirty-six (336) days. The Office determined a patent term adjustment of 336 days based upon 499 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 32 days pursuant to 37 CFR 1.703(b), reduced by 9, 30, 31, 60, and 65 days of Applicant delay, all pursuant to 37 CFR 1.704(b).

Patentees are correct that the amount of days over 36 months from the filing date of the application until the issue date of the patent was not included in the "B" delay period. The over three year period began on August 5, 2007 and ended on January 15, 2009 (the date before Applicants filed an RCE), and is 530 days. See 35 U.S.C. 154(b)(1)(B)(i). However, the application was under appeal for 157 days (August 13, 2008 to January 16, 2009). As such, the "B" delay period is 373 days.

In view thereof, the correct number of days of patent term adjustment is seven hundred nine (709) days (904 days (571+373) of PTO delay, reduced by 195 (9+30+31+60+65) days of Applicant delay).

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 **seven hundred nine (709)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,662,816 B2

DATED : **February 16, 2010**

INVENTOR(S) : Cummings 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 336 days.

Delete the phrase "by 336 days" and insert – by 709 days--

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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In re Application of
KAO, CHENG-SHEN :
Application No.: 10/911,178 : DECISION ON
Filing or 371(c) Date: August 4, 2004 : PETITION
Attorney Docket Number: 61838(71987) :

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on May 18, 2006.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed December 16, 2005 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 24, 2006.

Petitioner states that the issue fee transmittal and payment were timely filed via the Express Mail to USPTO on March 6, 2006. Petitioner submitted a copy of the postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101028

DATE : October 28, 2010

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7452862 (10/911221)

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: Cecilia Tsang **Art Unit** 1654

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12-14-2010

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Patent No. : 7,824,748 B2
Serial No. : 10/911,249
Inventor(s) : Nabil F. Nasser, et. al.
Issued : November 2, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged error in column1, line 7, cannot be found in the printed patent.

In view of the foregoing, your request in this matter is hereby denied.

A certificate of correction will issue to correct the remaining errors noted in your request.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period with the sum of $100.00

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(571-272-3422 or 703-756-1580)

Gregory W. Smock
Schwegman, Lundberg & Woessner
P.O. Box 2938
Minneapolis, MN 55402

eJ

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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JAN 11 2011

OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 10/911,337 : ON APPLICATION FOR
Filed: August 4, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 15659US01 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705), filed October 28, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand eighty-seven (1087) days, not seven hundred fifty (750) 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).

---

[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Klarquist Sparkman, LLP
121 SW Salmon St
Suite 1600
Portland OR 97204

In re Patent No. 7,589,200 :
Issue Date: September 15, 2009 :
Application No. 10/911,684 : DECISION ON PETITION
Filed: August 3, 2004 :
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

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Klarquist Sparkman, LLP
121 SW Salmon St
Suite 1600
Portland OR 97204

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In re Patent No. 7,589,200 :
Issue Date: September 15, 2009 :
Application No. 10/911,684 : DECISION ON PETITION
Filed: August 3, 2004 :
Attorney Docket No. 7946-83109-01 :

This is a decision on the renewed petition for expungement of information, filed November 24, 2010, which is being treated as petitions under 37 CFR 1.182 to invalidate an assignment previously recorded against the above-identified application.

The renewed petition is **dismissed**. This is not a final agency action.

Petitioner indicates an assignment recorded on August 15, 2005 was erroneously filed for the above identified application and requests this assignment record be expunged from the file. Petitioner argues that expungement of the noted assignment would not affect the integrity of the assignment records because the erroneously recorded assignment was in fact a license agreement and license agreements are not assignments.

Petitioner's argument is not convincing as it based on the assumption that assignment and assignment records are one and the same. Assignment records are the records of assignment documents recorded. MPEP 313 states in part:

> **313 [R-3] Recording of Licenses, Security Interests, and Other Documents Other Than Assignments**
>
> In addition to assignments and documents required to be recorded by Executive Order 9424, documents affecting title to a patent or application will be recorded in the Assignment Division of the United States Patent and Trademark Office (Office). Other documents not affecting title may be recorded at the discretion of the Director. 37 CFR 3.11(a).
>
> Thus, some documents which relate to patents or applications will be recorded, although they do not constitute a transfer or change of title. Typical of these documents which are accepted for recording are license agreements and agreements which convey a security

> interest. Such documents are recorded in the public interest in order to give third parties notification of equitable interests or other matters relevant to the ownership of a patent or application.
>
> The recordation of a document is not a determination of the effect of the document on the chain of title. The determination of what, if any, effect a document has on title will be made by the Office at such times as ownership must be established to permit action to be taken by the Office in connection with a patent or an application. See MPEP § 324.

Clearly, documents which are not assignments per se and do not transfer or change title may be recorded as an assignment document. Specifically identified as a type of such document is a license agreement. Therefore, expunging a license agreement that was recorded and became part of the assignment record would affect the integrity of the assignment record. Such an expungement is not allowed.

Petitioner argues that allowing the license agreement to remain in the assignment record would not allow third parties to determine title to pending applications and issued patents. However, as noted in MPEP 313 above, such documents are recorded in the public interest in order to give third parties notification of **equitable interests or other matters relevant to ownership**. This goes beyond petitioner's limited scope of concern over **title** to applications and patent.

For the reasons presented, the petition is dismissed.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571)272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,771,821	:	
Issue Date: August 10, 2010	:	
Application No. 10/911,744	:	ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. 023971-0456	:	

This is a decision on the petition filed September 30, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-291. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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In re Application of	:	
Carter et al.	:	
Application No. 10/911,875	:	DECISION ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. 59858US002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before December 27, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 24, 2010. Accordingly, the date of abandonment of this application is December 28, 2010. A Notice of Abandonment was mailed January 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Petitioner has submitted $540.00 towards the required large entity $1,620.00 petition fee, thus creating a $1,080.00 shortage. However, petitioner has also submitted an unnecessary duplicate $1,510.00 issue fee and $300.00 publication fee. Accordingly, the difference of $730.00 will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent and review of the Corrected Drawings submitted with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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AUG 3 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,537,729 :
Issue Date: May 26, 2009 :
Application No. 10/912,000 : DECISION ON PETITION
Filed: August 5, 2004 :
Attorney Docket No. 08291-435003 :

This is a decision on the Request For Correction Of Assignee, filed August 27, 2009, which is being treated as a Petition Under 37 CFR 3.81(b), to accept the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was previously submitted on July 31, 2009.

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 previously submitted on July 31, 2010.

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. 7,537,729.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

.Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : October 7, 2010

Patent No. :7638145
Inventor :Blanchetter et al.
Patent Issued :December 29, 2009
Title :CULTIVATED AGARWOOD

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.

Review of the application file reveals that correspondence to support entry of reference data, item (56) of Title page. as noted in applicants' request for correction is not found in the records of the Patent and Trademark office. Accordingly, a signed and dated copy of applicants 1449 or PTO-892 reflecting the requested references considered by the examiner is required for further consideration. If omitted references were submitted by applicant, a copy of the receipt obtained from this office should be included.

In view of of the foregoing, applicants request is hereby denied. Any telephone inquiries concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions and Certificates of
Correction Branch
(703) 756-1580 or (703) 756-

Ann S. Viksnins
P.O. Box 111098
St. Paul, MN 55111-1098

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/10

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction for Appl. No.: 10912262 Patent No.: 7412559

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

❑ **Approved**	**All** changes apply.
☒ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments:

Change #9, should be column 40 line 19, not line 15

Change #10, should be column 40 line 20, not line 16

/Kevin L Ellis/ — **SPE**

2187 — **Art Unit**

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/912,367	KOPRESKI, MICHAEL S.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL					CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435				91.2	435	6	91.1	91.51				
INTERNATIONAL CLASSIFICATION					436	94						
C	1	2	P	19/34	536	23.1	24.3	24.33				
C	1	2	Q	1/68								
G	0	1	N	33/00								
C	0	7	H	21/02								
C	0	7	H	21/04								

(Assistant Examiner) (Date)	/Frank W Lu/ 4/8/2011	Total Claims Allowed: 7	
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s)	O.G. Print Fig.
		1	None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
2	2		32		62		92		122		152		182
3	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
	6		36		66		96		126		156		186
4	7		37		67		97		127		157		187
5	8		38		68		98		128		158		188
6	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
	11		41		71		101		131		161		191
7	12		42		72		102		132		162		192
	13		43		73		103		133		163		193
	14		44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

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Paper No.

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of :
Kopreski :
Application No. 10/912,367 : LETTER REGARDING
Filed: July 23, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 00-1312-Q :
Title: METHOD ENABLING USE OF :
EXTRACELLULAR RNA EXTRACTED FROM :
PLASMA OR SERUM TO DETECT, :
MONITOR OR EVALUATE CANCER :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 5, 2011. Applicants request that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from one hundred and forty-two (142) days to one hundred and ninety-five (195) days.

The request for reconsideration of the patent term adjustment is **DISMISSED**.

Applicants are given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

On May 9, 2011, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 142 days. The present request for reconsideration, filed on August 5, 2011, was timely filed as it was submitted concurrently with the submission of the issue fee on April 12, 2011. See § 1.705(b).

The record supports a conclusion that any patent issuing from this patent is subject to a terminal disclaimer.

Applicants have disputed one period of delay: the 53-day reduction associated with the filing of a supplemental response on April 11, 2011.

37 CFR § 1.704(c)(8) indicates that the submission of a supplemental reply, other than a supplemental reply expressly requested by the examiner, after a reply has been filed, will result in a period of adjustment set forth in § 1.703, and the reduction will constitute 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.

A non-final Office action was mailed on August 18, 2010, and a response was received on February 17, 2011. A supplemental response was subsequently received on April 11, 2011, which resulted in a reduction of 53 days, pursuant to 37 CFR § 1.704(c)(8).

Applicants have asserted that this reduction was improper, as the Examiner expressly requested the "submission of an Abstract of the Disclosure comprising fewer than 150 words"[1] and this was submitted to the Office on April 11, 2011. It is noted that with this petition, Applicants have included a copy an e-mail that was sent from the Examiner, where on April 10, 2011 the Examiner expressly requested the submission of an abstract.

Applicants' argument has been considered, and has been deemed to be unpersuasive. A review of the electronic file shows that the submission of April 11, 2011 consisted of the aforementioned abstract, an Information Disclosure Statement (IDS), and a one-page item of non-patent literature. It is the IDS, and not the abstract, which warrants a 53 day reduction pursuant to 37 C.F.R. § 1.704(c)(8).

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).

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[1] Petition, page 2.

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

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FAY SHARPE LLP
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115

MAILED
MAR 02 2011
OFFICE OF PETITIONS

In re Application of :
Zmuda et al. :
Application Number: 10/912,405 : ON PETITION
Filing Date: 08/05/2004 :
Attorney Docket Number: IMMU :
200081US02 :

This is a decision in response to the petition under 37 CFR 1.137(b) filed on December 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 25, 2010, for failure to timely file a proper response to the final Office action mailed on February 24, 2010, which set a three (3) month shortened statutory period for reply. On May 24, 2010, a Request for Continued Examination (RCE) transmittal form was filed. On November 24, 2010, however, a Notice of Improper Request for Continued Examination (RCE) was mailed, stating that the request was improper because it was not accompanied by a submission as required by 37 CFR 1.114, and that the time period set forth in the final Office action continues to run from the mailing date of that action. Notice of Abandonment was mailed on January 4, 2011.

Receipt of the paper styled as a preliminary amendment filed on December 22, 2010 is acknowledged. The amendment will be treated as the reply required by § 1.114.

The application is forwarded to Technology Center Art Unit 1648 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No.: 10912661 Patent No.: 7877212

CofC mailroom date: 5/23/11

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
You can fax the Director's SPE response to 571-270-9999

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.

Mayone A Moran SPE, AU 1631

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No.: 10912661 Patent No.: 7877212

CofC mailroom date: 5/23/11

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
[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.

Lamonte A Moran SPE, AU 1631

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MAY 20 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Bourdev :
Application No. 10/912,802 :
Filed: August 6, 2004 :
Attorney Docket No. 07844-0644001/P597 :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed February 25, 2011, which requests the initial determination of patent term adjustment be corrected from one thousand two hundred fifty-six (1,256) days to one thousand two hundred eighty-seven (1,287) 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 December 13, 2010, advising Applicant of a patent term adjustment to date of 1,256 days. In response, Applicant timely filed this application for patent term adjustment with payment of the issue fee on February 25, 2011.

Relevant Background Information

The Office mailed a Final Office action on February 27, 2007, which stated Claims 1-16 were pending in the application and stated Claims 1-16 were rejected.

Applicant filed an amendment on April 5, 2007. The amendment did not make any changes to Claims 1-16. However, the amendment did seek to add eight claims (Claims 17-24). The amendment includes several pages of arguments.

The Office mailed an Advisory Action on May 7, 2007. The Advisory Action stated,

> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because ... [t]hey raise new issues that would require further consideration and/or search.... Applicant has added new claims 17-24, which would require further consideration and/or search.

Applicant filed a Notice of Appeal on June 7, 2007, which stated Applicant was appealing the action dated February 7, 2007, finally rejecting claims 1-16.

Applicant filed an appeal brief on September 7, 2007. The first page of the brief states, "The rejection of claims 1-16 is appealed." The "Concluding Comments" section on the last page of the brief states, "[C]laims 1-16 should be in condition for allowance, and it is respectfully requested that the grounds of rejection be overturned."

On January 27, 2010, the Board of Patent Appeals and Interferences ("Board") issued a decision reversing the rejection of Claims 1-16. The decision does not include any reference to Claims 17-24.

The Office mailed a Notice of Allowance allowing Claims 1-16 on April 30, 2010.

Applicant filed a request for continued examination ("RCE") and an information disclosure statement ("IDS") on July 29, 2010.

The Office mailed a second Notice of Allowance allowing Claims 1-16 on August 23, 2010.

Applicant filed a RCE and IDS on November 23, 2010.

The Office mailed a third Notice of Allowance allowing Claims 1-16 on December 13, 2010.

Discussion

The Office entered a 31-day reduction in patent term adjustment under 37 C.FR. § 1.704(b) because the Notice of Appeal was filed three months and 31 days after the Office mailed the final Office action. Applicant contends the 31-day reduction is unwarranted.

Applicant argues the April 5, 2007 amendment must have been "a complete and timely response to the outstanding final rejection" because Applicant did not file any other amendments prior to issuance of the Board decision.

The April 5, 2007 amendment sought to add Claims 17-24. The Board decision does not address Claims 17-24. In addition, the Board decision does not state the April 5, 2007 amendment placed the application in condition for allowance. Therefore, the Board decision is not proof the April 5, 2007 amendment was a proper response to the final Office action.

Although the Board decision did not address Claims 17-24, the 31-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) *might* well have been improper *if* the April 30, 2010 Notice of Allowance had allowed Claims 1-24. Specifically, the issuance of a Notice of Allowance allowing Claims 1-24 might well have implied the examiner had determined issuance of the Advisory action was improper. However, the April 30, 2010 Notice of Allowance only allowed Claims 1-16, and the record fails to indicate the examiner has ever allowed Claims 17-24.

The Advisory Action indicated the April 5, 2007 amendment failed to place the application in condition for allowance for two reasons, which included an assertion Claims 17-24 raised new issues that would require further consideration and/or search. Applicant has not established, or even argued, the eight claims did not raise any new issues that would have required further consideration and/or search.

In view of the prior discussion, the 31-day reduction in patent term adjustment was proper and will not be removed.

The correct patent term adjustment determination as of the date the Office issued the December 23, 2010 Notice of Allowance remains 1,256 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded any 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, and 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

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
SEP 15 2011
OFFICE OF PETITIONS

In re Patent of Bourdev :
Patent No. 7,966,556 :
Issue Date: June 21, 2011 : DECISION ON REQUESTS
Application No. 10/912,802 : FOR RECONSIDERATION OF
Filing Date: August 6, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 07844-0644001/P597 :

This is a decision on the "Response to Decision on Application for Patent Term Adjustment" filed July 20, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(b), and the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed August 22, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d).

The petition under 37 C.F.R. § 1.705(b) is **dismissed**.

The petition under 37 C.F.R. § 1.705(d) is **dismissed**.

The patent sets forth a patent term adjustment of 1,377 days, which is based on the following determinations by the Office:

1. The period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 321 days,
2. The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 121 days,
3. The period of delay under 35 U.S.C. § 154(b)(1)(C) ("C Delay) is 966 days, and
4. The period of delay under 35 U.S.C. § 154(b)(2)(C) ("Patentee Delay") is 31 days.

The petition under 37 C.F.R. § 1.705(b) and the petition under 37 C.F.R. § 1.705(d) assert the correct period of Patentee Delay is 0 days, not 31 days.

The petition under 37 C.F.R. § 1.705(d) asserts the correct period of B Delay is 374 days, not 121 days.

The petition under 37 C.F.R. § 1.705(d) states the correct patent term adjustment is 1,661 days, which is the sum of 321 days of A Delay, 374 days of B Delay, and 966 days of C Delay, reduced by 0 days of Patentee Delay.

Patentee Delay

Patentee asserts the correct period of Patentee Delay is 0 days, not 31 days as calculated by the Office.

Relevant Background Information for Patentee Delay

The Office mailed a Final Office action on February 27, 2007, which stated Claims 1-16 were pending in the application and stated Claims 1-16 were rejected.

Patentee filed an amendment on April 5, 2007. The amendment did not make any changes to Claims 1-16. However, the amendment did seek to add eight claims (Claims 17-24). The amendment included several pages of arguments.

The Office mailed an Advisory Action on May 7, 2007. The Advisory Action stated,

> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because ... [t]hey raise new issues that would require further consideration and/or search.... Patentee has added new claims 17-24, which would require further consideration and/or search.

Patentee filed a Notice of Appeal on June 7, 2007, which stated Patentee was appealing the action dated February 7, 2007, finally rejecting claims 1-16.

Patentee filed an appeal brief on September 7, 2007. The first page of the brief states, "The rejection of claims 1-16 is appealed." The "Concluding Comments" section on the last page of the brief states, "[C]laims 1-16 should be in condition for allowance, and it is respectfully requested that the grounds of rejection be overturned."

On January 27, 2010, the Board of Patent Appeals and Interferences ("Board") issued a decision reversing the rejection of Claims 1-16. The decision does not include any reference to Claims 17-24.

The Office mailed a Notice of Allowance allowing Claims 1-16 on April 30, 2010.

Patentee filed a request for continued examination ("RCE") and an information disclosure statement ("IDS") on July 29, 2010.

The Office mailed a second Notice of Allowance allowing Claims 1-16 on August 23, 2010.

Patentee filed a RCE and IDS on November 23, 2010.

The Office mailed a third Notice of Allowance allowing Claims 1-16 on December 13, 2010. The patent term adjustment determination mailed with the third Notice of Allowance includes a 31-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) for delay in the submission of a reply to the February 27, 2007 final Office action.

Patentee filed an "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" on February 25, 2011. Patentee asserted the Office's entry of a 31-day reduction in patent term adjustment under 37 C.FR. § 1.704(b) was improper.

The Office mailed a decision dismissing the February 25, 2011 petition on May 20, 2011. The decision stated,

> Applicant argues the April 5, 2007 amendment must have been "a complete and timely response to the outstanding final rejection" because Applicant did not file any other amendments prior to issuance of the Board decision.
>
> The April 5, 2007 amendment sought to add Claims 17-24. The Board decision does not address Claims 17-24. In addition, the Board decision does not state the April 5, 2007 amendment placed the application in condition for allowance. Therefore, the Board decision is not proof the April 5, 2007 amendment was a proper response to the final Office action.
>
> Although the Board decision did not address Claims 17-24, the 31-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) might well have been improper if the April 30, 2010 Notice of Allowance had allowed Claims 1-24. Specifically, the issuance of a Notice of Allowance allowing Claims 1-24 might well have implied the examiner had determined issuance of the Advisory action was improper. However, the April 30, 2010 Notice of Allowance only allowed Claims 1-16, and the record fails to indicate the examiner has ever allowed Claims 17-24.
>
> The Advisory Action indicated the April 5, 2007 amendment failed to place the application in condition for allowance for two reasons, which included an assertion Claims 17-24 raised new issues that would require further consideration and/or search. Patentee has not established, or even argued, the eight claims did not raise any new issues that would have required further consideration and/or search.
>
> In view of the prior discussion, the 31-day reduction in patent term adjustment was proper and will not be removed.

A renewed petition under 37 C.F.R. § 1.705(b) was timely filed on July 20, 2011. A petition under 37 C.F.R. § 1.705(d) was timely filed August 22, 2011. Both petitions assert the Office's entry of a 31-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(b) was improper.

Discussion of Patentee Delay

Patentee argues the Board decision is an indication the amendment was a complete and proper response to the final Office action. However, the only issue addressed by the Board was the propriety of the examiner's rejection of Claims 1-16 on February 27, 2007. Therefore, the Board decision is not proof the amendment was a complete and proper reply to the final Office action.

Patentee argues the amendment did not raise any new issues that would require further consideration and/or search. Specifically, the July 20, 2011 petition states,

> [The May 7, 2007 Advisory Action] refused entry of the amendment and asserted that the new claims raised new issues that would require further consideration and/or search. However, the note on the last page of the Advisory Action provided no basis for this assertion....
>
> [T]he new claims 17-24 recited essentially the same language found in unamended claims 9-16.... Thus, the assertion in the Advisory Action dated May 7, 2007, that the new claims raised new issues that would require further consideration and/or search was clearly incorrect.
>
> Patentee respectfully submits that the amendment filed on April 5, 2007, was complete and timely response to the outstanding final rejection ... and that the issuance of the Advisory Action was improper.

Patentee has failed to establish the amendment did not raise any issue(s) that would require any additional search or consideration. For example, Patentee has not proven *every* issue that the examiner would have needed to search and/or consider when addressing Claim 17 had previously been searched or considered by the examiner when addressing Claim 9.[1]

In view of the prior discussion, the Office's entry of a 31-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(b) was proper.

B Delay

Patentee asserts the correct period of B Delay is 374 days, not 121 days as calculated by the Office.

Relevant Statute and Regulation

The statutory basis for calculation of "B delay" is 35 U.S.C. § 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

[1] Claim 9 states, "A computer program product, tangibly stored on information carrier, the computer program product comprising instructions operable to cause a programmable process to perform operations comprising [specified operations]."

Claim 17 states, "A system comprising: a computer-readable medium encoding a word processing document; and processing electronics configured to perform operations comprising [the same specified operations identified in claim 9]."

(i) any time consumed by continued examination of the application requested by the Patentee under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the Patentee except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 C.F.R. § 1.702(b), provides:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the Patentee.

Time Consumed by Appellate Review

The period beginning August 7, 2007, the day after the date three years after the filing date, and ending June 21, 2011, the date the patent issued, is 1,415 days.

When calculating the period of B Delay, the Office reduced the 1,415-day time period by 966 days as a result of time consumed by appellate review.

Patentee implicitly contends the Office improperly calculated the number of days of appellate review to be excluded from the period of B Delay.

A Notice of Appeal was filed June 7, 2007.

A Board decision was mailed January 27, 2010.

The number of days beginning June 7, 2007, and ending January 27, 2010, is 966 days. In other words, 966 days were consumed by appellate review. Therefore, the Office reduction of the 1,415-day period by 966 days for time consumed by appellate review was proper.

Time Consumed by Continued Examination

As previously stated, the period beginning August 7, 2007, the day after the date three years after the filing date, and ending June 21, 2011, the date the patent issued, is 1,415 days.

The number of days beginning July 28, 2010, the date a Request for Continued Examination ("RCE") was filed, and ending June 21, 2011, the date the patent issued, is 328 days.

When calculating the period of B Delay, the Office reduced the 1,415-day time period by 328 days as a result of time consumed by continued examination.

Patentee argues the Office should not have excluded the 191-day time period beginning December 13, 2010, the date of mailing of the last Notice of Allowance, and ending June 21, 2011, the date the patent issued, from the period of B Delay.

Patentee argues the period of time from the issuance of a notice of allowance to the issuance of a patent is not "any time consumed by continued examination requested by the Patentee under section 132(b)" within the meaning of 35 U.S.C. § 154(b)(1)(B)(i).

Patentee's arguments have been considered, but not found persuasive.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. § 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. § 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. § 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. § 132(b) and 37 C.F.R. § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. § 132(b) and C.F.R. § 1.114. *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the Patentee under section 132(b)" within the meaning of 35 U.S.C. § 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. *Garcia v. United States*, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). *BP Am. Prod. Co. v. Burton*, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary

meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term as follows:

1. 35 U.S.C. § 154(b)(1)(B) states the provisions of the section are "Subject to the limitations of paragraph (2)."

   "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for Patentee delay.

2. 35 U.S.C. § 154(b)(1)(B) includes the following language: "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States."

   The language quoted directly above means the condition must first occur that the issuance of an original patent (35 U.S.C. § 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

3. 35 U.S.C. § 154(b)(1)(B) includes the following language: "not including- (i) any time consumed by continued examination of the application requested by the Patentee under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the Patentee except as permitted by paragraph (3)(C)."

   The language quoted directly above means the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. § 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

   Clauses in the statute are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in *Wyeth v. Dudas*,

580 F.Supp. 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii). Clause (i) specifies "any time consumed by continued examination of the application requested by the Patentee under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. Websters Collegiate Dictionary, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

4. 35 U.S.C. § 154(b)(1)(B) includes the following language: "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued."

The language quoted directly above means the consequence of a failure to issue the patent within the 3-year period is that, after "the end of that 3-year period," an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the Patentee under section 132(b) does not end until issuance of the patent. 35 U.S.C. § 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. § 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the Patentee, for continued examination of an application for a fee (request for

continued examination or RCE practice), without requiring the Patentee to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the Patentee is entitled to a patent under the law. See 35 U.S.C. § 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the Patentee is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the Patentee is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. § 151 ("[i]f it appears that Patentee is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the Patentee"). If on examination it appears that the Patentee is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. § 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the Patentee thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. § 132 it subsequently appears the Patentee is entitled to a patent (e.g., in response to an argument or amendment by the Patentee), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. § 151 it subsequently appears that the Patentee is not entitled to a patent (e.g., in response to information provided by the Patentee or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. § 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in *Blacklight Power*, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. § 151. *See BlackLight Power, Inc. v. Rogan*, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. *See In re Drawbaugh*, 9 App. D.C. 219, 240 (D.C. Cir 1896).

> Moreover, the Patentee continues to be engaged in the examination process after the mailing of the notice of allowance. 37 C.F.R. § 1.56 makes clear that the Patentee has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 C.F.R. § 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 C.F.R. §§ 1.97 and 1.98 provide for the consideration of information submitted by the Patentee after a notice of allowance has been mailed. *See* 37 C.F.R. § 1.97(d). In addition, 37 C.F.R. § 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures permit the filing of a request for continued examination under 37 C.F.R. § 1.114 even after the issuance of a notice of allowance under 35 U.S.C. § 151. *See* 37 C.F.R. § 1.114(a)(1).
>
> As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the Patentee under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Patentee has gotten further prosecution of the application without having to file a continuing application under 37 C.F.R. § 1.53(b).
>
> All of the continued examination pursuant to the filing of the request by the Patentee is properly excluded from the delay attributed to the Office. 35 U.S.C. § 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the Patentee under 35 U.S.C. § 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that Patentee has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 C.F.R. § 1.53(b).

In this case, a RCE was filed July 28, 2010, and the patent issued by virtue of that request on June 21, 2011. Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), the 328-day period beginning July 28, 2010, and ending June 21, 2011, is not part of the period of B Delay.

The Office's Calculation of B Delay is Correct

In view of the prior discussion, the Office properly excluded the 966-day time period consumed by appellate review and the 328-day time period consumed by continued examination from the period of B Delay.

As previously calculated by the Office, the period of B Delay is 121 days (1,145 – 966 – 328).

Conclusion

Patentee has failed to establish the Office improperly calculated the period of Application Delay or the period of B Delay. Therefore, the patent term adjustment remains 1,377 days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

MAILED

DEC 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,274,412 :
Issue Date: September 25, 2007 :
Application No. 10/912,924 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. 33365-1400 :

This is a decision on the petition under 37 CFR 1.378(c), filed December 5, 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 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.

A petition under 37 CFR 1.378(c) requires a fee of $1,640. As authorized, this fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
A. Buell ISH III :
Application No. 10/913,137 : DECISION ON PETITION
Filed: August 5, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **VF1-0006-US** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 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 September 24, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3764 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/14/10 Paper No.: _____

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: ~~11/788,~~ 10/913,164

Patent No.: 7347634

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should Coc 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

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.

The Request for Certificate of Correction to correct the application's informalities, no new matters have been added.

SPE /UYEN-CHAU N. LE/ ART UNIT 2874

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OFFICE OF PETITIONS

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Chen et al. :
Application No. 10/913,197 : ON APPLICATION FOR
Filed: August 6, 2004 : PATENT TERM ADJUSTMENT
Docket No. 15660US01 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705), filed January 31, 2011. Applicants submit that the patent term adjustment to be indicated on the patent is one thousand five hundred twenty-three (1523) days, not nine hundred ninety-five (995) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

To the extent that applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

While applicants' request is dismissed as premature, an audit of the patent term adjustment calculations has revealed an error. This error is discussed later in the decision and has resulted in a further 1 day reduction in patent term adjustment.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any

further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

A review of the patent term adjustment calculations for this application has revealed an error in the length of the reduction associated with the filing of a March 25, 2009 response after a non-final Office action was mailed.

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[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

A non-final Office action was mailed on November 25, 2008. On March 25, 2009, not on March 24, 2009 as indicated in current patent term adjustment calculations, applicants filed a response. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 28, not 27, days for Applicant delay for the period beginning on February 26, 2009, the day after the date that is three months after the mailing date of the November 24, 2008 non-final Office action, and ending on March 25, 2009, the date a reply was filed. The 27 day reduction is being removed and a 28 day reduction is being entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is **nine hundred ninety-four (994) days** -- 1089 days of Office delay minus 95 (62 + 28 + 5) days of Applicant delay. The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **nine hundred ninety-four (994) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

Patent Guidance and General Info
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- Employee & Office Directories
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10/913,197 STORAGE DEVICE CONTENT AUTHENTICATION

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Patent Term Adjustment

Filing or 371(c) Date:	08-06-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	1089
A Delays:	1089	PTO Manual Adjustments:	-1
B Delays:	0	Applicant Delays:	94
C Delays:	0	Total PTA Adjustments:	994

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
73	03-25-2011	Adjustment of PTA Calculation by PTO		1	0
64	11-08-2010	Mail Notice of Allowance	178		54
63	11-04-2010	Notice of Allowance Data Verification Completed			0
62	11-04-2010	Issue Revision Completed			0
61	10-27-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
60	10-27-2010	Document Verification			0
59	10-24-2010	Examiner's Amendment Communication			0
58	10-24-2010	Allowability Notice			0
57	10-22-2010	Examiner Interview Summary Record (PTOL - 413)			0
56	01-17-2010	Date Forwarded to Examiner			0
55	01-14-2010	Amendment Submitted/Entered with Filing of CPA/RCE			0
54	01-14-2010	Request for Continued Examination (RCE)			50
53	01-17-2010	Disposal for a RCE / CPA / R129			0
52	01-14-2010	Request for Extension of Time - Granted			0
51	01-14-2010	Workflow - Request for RCE - Begin			0
50	09-14-2009	Notice of Appeal Filed		5	45
49	08-24-	Mail Advisory Action (PTOL - 303)			0

	2009				
48	08-21-2009	Advisory Action (PTOL-303)			0
47	08-12-2009	Date Forwarded to Examiner			0
46	08-10-2009	Amendment after Final Rejection			0
45	06-09-2009	Mail Final Rejection (PTOL - 326)			0
44	06-08-2009	Final Rejection			0
43	04-20-2009	Case Docketed to Examiner in GAU			0
42	04-11-2009	Date Forwarded to Examiner			0
41	03-24-2009	Response after Non-Final Action		27	39
40	03-24-2009	Request for Extension of Time - Granted			0
39	11-25-2008	Mail Non-Final Rejection			0
38	11-24-2008	Non-Final Rejection			0
37	10-06-2008	Case Docketed to Examiner in GAU			0
36	09-18-2008	Date Forwarded to Examiner			0
35	09-04-2008	Response after Non-Final Action		62	33
34	09-04-2008	Request for Extension of Time - Granted			0
33	04-04-2008	Mail Non-Final Rejection	911		-1
32	03-31-2008	Non-Final Rejection			0
31	08-06-2004	Information Disclosure Statement considered			0
30	10-26-2004	Information Disclosure Statement considered			0
22	10-17-2007	Withdraw Flagged for 5/25			0
21	10-15-2007	Flagged for 5/25			0
20	04-04-2007	Case Docketed to Examiner in GAU			0
19	10-04-2006	Case Docketed to Examiner in GAU			0
18	10-04-2006	IFW TSS Processing by Tech Center Complete			0
17	02-06-2006	Miscellaneous Incoming Letter			0
16	10-15-2004	Oath or Declaration Filed (Including Supplemental)			0
15.7	10-26-2004	Information Disclosure Statement (IDS) Filed			0
15	10-26-2004	Information Disclosure Statement (IDS) Filed			0

14.7	08-06-2004	Information Disclosure Statement (IDS) Filed	0
14	08-06-2004	Information Disclosure Statement (IDS) Filed	0
13	10-06-2004	Application Return from OIPE	0
12	10-06-2004	Application Return TO OIPE	0
11	10-06-2004	Application Return from OIPE	0
10	10-06-2004	Application Is Now Complete	0
9	10-06-2004	Pre-Exam Office Action Withdrawn	0
8	10-06-2004	Application Return TO OIPE	0
7	10-06-2004	Application Dispatched from OIPE	0
6	10-06-2004	Application Is Now Complete	0
5	09-23-2004	Cleared by L&R (LARS)	0
4	09-23-2004	Referred to Level 2 (LARS) by OIPE CSR	0
3	09-23-2004	CASE CLASSIFIED BY OIPE	0
2	08-28-2004	IFW Scan & PACR Auto Security Review	0
1	08-06-2004	Initial Exam Team nn	0

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AUG 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,939,310	: DECISION ON
Ginns, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/913,280	: of PATENT TERM ADJUSTMENT
Issue Date: May 10, 2011	: and
Filed: August 6, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 07917-0238001	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed July 6, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from three hundred forty-three (343) days to three hundred ninety-four (394) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

On May 10, 2011, the instant application matured into U.S. Patent No. 7,939,310 with a patent term adjustment of three hundred forty-three (343) days. The Office determined a patent term adjustment of 343 days based upon 222 days of Office delay pursuant to 37 CFR 1.703(a)(1), 68 days of Office delay pursuant to 37 CFR 1.703(a)(2), and 443 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 370 days of Applicant delay due to five separate instances under 37 CFR 1.704(b).

Patentee argues that even though he filed an RCE on October 23, 2008, he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on January 3, 2011 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 128

additional days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
>
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 443 days

based on the application having been filed under 35 U.S.C. 111(a) on August 6, 2004 and a request for continued examination under 132(b) having been filed on October 23, 2008. In other words, the 128 day period beginning on the date of mailing of the notice of allowance on January 3, 2011 to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, (580 F. Supp. 2d 138), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute,

inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)2. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures3 permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on October 23, 2008, and the patent issued by virtue of that request on May 10, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on October 23, 2008 and ending on May 10, 2011 is not included in calculating Office delay.

In addition, Patentees also point out that they should have been assessed seventy-seven (77) days of Applicant delay pursuant to 37 CFR 1.704(c)(7). A review of the record reveals that Applicants filed a response to a Notice of Non-Compliant Amendment on January 29, 2010, subsequent to a response filed on November 13, 2009. Accordingly, pursuant to 37 CFR 1.704(c)(7), 77 days of Applicant delay should have been assessed.

In view thereof, the correct number of days of patent term adjustment is **two hundred sixty-six (266)** days (290 (222+68) days of "A" delay and 443 days of "B" delay, reduced by 467 (91+91+92+85+77+31) days of Applicant delay and 358 days of overlap).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred sixty-six (266) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,939,310 B2

DATED : **May 10, 2011**

INVENTOR(S) : Ginns 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 343 days.

Delete the phrase "by 343 days" and insert – by 266 days--

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OFFICE OF PETITIONS

In re Application of :
SHENNIB, Adnan :
Application No. 10/913,586 : DECISION ON PETITION
Filed: August 05, 2004 : TO WITHDRAW
Attorney Docket No. **SHEN0003** : 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 06, 2011.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Michael A. Glenn on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the new address of record indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

/Michelle R. Eason/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ADNAN SHENNIB/CARDIOVU, INC.**
4101-F #111 DUBLIN BLVD.
DUBLIN, CA 94568

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In re Application of
Joshua Blake et al.
Application No. 10/913,818
Filed: August 6, 2004
Attorney Docket Number: 1231-P0004

ON PETITION

This is a decision on the petition, filed September 24, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned March 22, 2006 for failure to pay the issue fee in response to the Notice of Allowance mailed on December 21, 2005. Accordingly, the Notice of Abandonment was mailed on May 8, 2006.

The issue fee in the amount of $755.00, publication fee in the amount of $300 and the petition fee in the amount of $810 have been charged to the credit card provided.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 101/2
EAST HANOVER NJ 07936-1080

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Simard et al.	:	
Application No. 10/913,883	:	DECISION ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. VA/H-32319B	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 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 August 1, 2007, as required by the Notice of Allowance and Fee(s) Due mailed May 1, 2007. Accordingly, the date of abandonment of this application is August 2, 2007. A Notice of Abandonment was mailed August 24, 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 $1,510.00 and the publication fee of $300.00,(2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Blake E. Vande Garde
3125 Springbank Lane
Suite G
Charlotte, NC 28226

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
AUG 16 2011
OFFICE OF PETITIONS

In re Application of :
Sui :
Application No. 10/913,916 : DECISION ON PETITION
Filed: 6 August, 2004 :
Attorney Docket No. INSIG6.001AUS :

This is a decision on the petition filed on 1 July, 2011, requesting correction of the name of the inventor/applicant, and considered for relief under 37 C.F.R §1.182.

NOTE:

Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct—as well as the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner also appears not to have submitted a corrected/replacement oath/declaration or application data sheet (ADS).

The petition under 37 C.F.R §1.182 is **DISMISSED**.

A request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.182."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

The guidance in the Commentary set forth at MPEP§605.04(c) suggests to Petitioner the proper procedure herein:

605.04(c)Inventor Changes Name [R-5]

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and **>a statement< signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a * copy of the court order.

Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee.

If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name.

If the petition is granted, if the application is maintained in paper with a file jacket label (i.e., the application is an 08/ or earlier series application), the original declaration must be marked in red ink, in the left margin "See paper No. _ for correction of inventor name" and the application should be sent to the Office of Initial Patent Examination (OIPE) for change of name on the file wrapper and in the PALM database. If the petition is granted in an Image File Wrapper (IFW) application or if the application is an 09/ or later series application, the spelling of the inventor's name should be changed in the Office computer records and a new PALM bib-data sheet should be printed. If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 CFR 1.21(h) to the Assignment Division for a change in the assignment record. (Emphasis supplied)

BACKGROUND

A search of the file indicates that:

The instant application was filed, Petitioner indicates, with another form as to an inventor's name—the name having been typed and signed in that form.

On 1 July, 2011, Petitioner indicated to the Office that the name of inventor/applicant should be corrected to overcome the incorrect form of the name of the inventor.

As noted above, it also does not appear that Petitioner submitted an executed oath/declaration in the "corrected" form or an updated application data sheet (ADS), the latter of which may not be required but should be included.

Moreover, Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct.

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. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.182 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

[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). See specifically, the regulations at 37 C.F.R. §10.18.

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,021,162
APPLICATION NO. : 10/913916
ISSUE DATE : September 20, 2011
INVENTOR(S) : Leung Kwok Sui

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

* On page 1, Item 75 (Inventor), please delete "Leung Kwok Sui" and insert --Kwok-Sui Leung--.

12515032
010312

APPROVED: /X.T./ (03/06/2012)

MAILING ADDRESS OF SENDER:

Thomas R. Arno
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. INSIG6.001AUS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FOLEY AND LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,507,820	:	DECISION
Landis et al.	:	DISMISSING REQUEST FOR
Issue Date: March 24, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/914,048	:	TERM ADJUSTMENT
Filed: August 26, 2004	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 032026-0808	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed May 24, 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 one hundred seventy-six (1176) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b). Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Patentee disputes the B delay period. Specifically, patentee states, in pertinent part:

> First, the Applicants believe that the 11-day deduction of patent term adjustment, based on the September 30, 2008 filing date of the Notice of Appeal through the October 10, 2008 mailing date of the Notice of Allowance (actual mailing date is October 3, 2008 as reflected by the PTO's Transaction History (attached as Exhibit B)), is improper under 35 U.S.C.

> § 154(b)(1)(c)(iii), which provides that the guarantee of no more than 3-year pendency does not include "any time consumed by appellate review by the Board." 37 C.F.R. § 1.702(b) contains parallel language. Although 37 C.F.R. §1.703(b)(4) appears to implement this provision by counting the number of days "beginning on the date on which a notice of appeal to the Board... was filed," this rule over counts days, because the filing of the notice of appeal does not commence the time period of appellate review by the Board. To the contrary, as set forth in 37 C.F.R. §41.35, jurisdiction does not pass to the Board until after all briefs and the examiner's answer have been issued, at which time the Technology Center transmits the file to the Board. Until then, there is no "appellate review by the Board," and the examiner maintains jurisdiction, for example, to reopen prosecution or issue a notice of allowance.
>
> In this application, there was no appellate review by the Board, as no Brief on Appeal was ever filed. The notice of appeal was filed to maintain pendency while the examiner considered Applicants' final response, filed on May 22, 2008. Thus, the 11-day deduction was in no way related to appellate review by the Board, and therefore, 35 USC 154(b)(1)(B)(ii) does not justify excluding these days from the 3-year pendency calculation.

Petition, p. 2.

Patentee assertion is without merit. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

As specifically stated in 37 CFR 1.703:

> (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.**

In this instance, the period consumed by appellate review is 11 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, September 30, 2008, and ending on the date of mailing of the notice of allowance, October 10, 2008. Thus, B delay is 585 days (596 - 11).

Patentee also disputes the period of reduction of 131 days for applicant delay. Patentee states:

> Next, on November 13, 2008, Applicants filed a Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705 for review of PTA as calculated by the PTO at the time of grant. However, as evidenced in the PTO's Patent Term Adjustment History (attached as Exhibit C), the PTO deducted 131 days based on the filing of this request. Applicants believe this 131-day deduction is improper under 37 C.F.R. §1.740(e), which states as follows:
>
> > Submission of an application for patent term adjustment under § 1.75(b),(with or without request under § 1.705 (c) for reinstatement of patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Petition p. 2.

The Office notes that patentee is incorrect as to the basis of the 131 day reduction. The 131 day reduction is pursuant to 37 CFR 1.704(c)(8), not 1.704(c)(10), and was entered in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed by patentee on November 13, 2008.

On February 13, 2009, the Office mailed a LETTER REGARDING PATENT TERM ADJUSTMENT stating:

> The application history has been reviewed and it has been determined that the number days of applicant delay is incorrect.
>
> Pursuant to 37 CFR 1.704(c)(8):
>
> > Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]
>
> It is undisputed that applicants filed a notice of appeal on September 30, 2008, after filing a reply in compliance with 37 CFR 1.113(c) to the final Office action on May 22, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the notice of appeal. Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 131 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 23, 2008, and ending on the date that the notice of appeal was filed, September 30, 2008. Accordingly, a period of reduction of 131 days is being entered.

Letter p. 2.

Thus, patentee was not assessed any period of delay pursuant to 37 CFR 1.704(c)(10) for the submission of the Request for

Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705 on November 13, 2008. Rather, patentee was assessed a period of reduction under 37 CFR 1.704(c)(8) of 131 days for the submission of a supplemental reply.

Accordingly, the patent term adjustment remains 1034 days. No change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the previous 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) 272-3211.

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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MAR 02 2011

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,507,820	:	DECISION ON REQUEST FOR
LANDIS et al.	:	RECONSIDERATION OF
Issue Date: 03/24/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/914,048	:	AND
Filed: 08/06/2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 032026-0808	:	CERTIFICATE OF CORRECTION

This is a decision on the RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT UNDER 37 C.F.R. §1.705(d), filed February 28, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-five (1165) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-five (1165) 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 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 one hundred sixty-five (1165) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,507,820 B2

DATED : March 24, 2009 **DRAFT**

INVENTOR(S) : Landis 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 1034 days.

Delete the phrase "by 1034 days" and insert – by 1165 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 28 2011

OFFICE OF PETITIONS

LATHROP & GAGE LLP
2345 GRAND BOULEVARD
SUITE 2400
KANSAS CITY MO 64108

In re Patent No. 7,237,762	:	
Issue Date: July 3, 2007	:	
Application No. 10/914,145	:	NOTICE
Filed: August 10, 2004	:	
Attorney Docket No. WANG3261/EM	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED.**

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

As indicated above, the submission filed December 27, 2010, does not include a proper itemization. In this regard, the basic filing fee should be further itemized to include the basic filing, search and examination fees.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Young & Thompson
209 Madison Street
Suite 500
Alexandria, VA 22314

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Marcel-Claude Braud :
Application No. 10/914,228 : DECISION ON PETITION
Filed: August 10, 2004 : TO WITHDRAW FROM
Attorney Docket No. 0528-1117 : 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 February 11, 2011.

It is noted that practitioner has not certified that he has (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 papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. *See USPTO Form No. PTO/SB/83*[1].

It is further noted that practitioner has not provided a correspondence address for the intervening assignee[2] or first named singing inventor. Practitioner is reminded that 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).

In view of the above, the request to withdraw is under 37 CFR §§ 1.36(b) or 10.40 **NOT APPROVED**.

---

[1] 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*).

[2] In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Liam McDowell
1061 Dalebrook Drive
Alexandria, VA 22308

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)
7,170,211	2007-01-30	10/914,374	2004-08-09	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gerald L. Fellows/	Date (YYYY-MM-DD)	2011-08-25
Name	Gerald L. Fellows	Registration Number	36133

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7170211
Issue Date: January 30,2007
Application No. 10914374
Filed: August 9,2004
Attorney Docket No. 10541-1980

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 25,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 25,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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COMMISSIONER FOR PATENTS
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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

MAILED

FEB 0 1 2012

PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
SAYRE et al	:	
Application No.: 10/914,391	:	
Filing Date: 09 August 2004	:	PETITION UNDER
Attorney's Docket No.: 29868-207134	:	
For: METHOD OF MAKING... OF ANIMAL NUTRITION	:	37 CFR §§1.78(a)(3) and (a)(6)

This is in response to applicants' communication "PETITION AND AMENDMENT FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY," filed on 22 December 2011, which is being treated as a petition under 37 CFR §§1.78(a)(3) and (a)(6).

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with items (2) and (3) but not item (1) under 37 CFR §§1.78(a)(3) and 1.78(a)(6).

Regarding requirement (1), a proper reference to the prior-filed applications has not been made as the amendment of December 22, 2011 references application 12/145,249 filed subsequent to aforementioned application, and it cannot claim benefit to the later filed application.

A proper reference establishing the relationship to the prior-filed applications needs to be submitted, and will need to be provided either as an amendment to the specification in the first sentence(s) following the title or on the application data sheet (ADS) as required by 37 CFR 1.78(a)(2). Note MPEP 201.11

Regarding requirement (2), the proper surcharge of $1,410.00 under 37 CFR 1.17(t) has been charged to Deposit Account No.: 10-0435.

Regarding requirement (3), the statement that, "an unintentional delay claiming benefit under 35 USC 119(e) to an earlier filed US provisional application be accepted" is being construed as 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." Petitioner must immediately notify the Office of PCT Legal Administration if such an interpretation of the statement in the petition is not correct.

Any inquiries concerning this decision may directed to Rafael Bacares at (571) 272-3276. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center Art Unit 1611.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
Legal Examiner
PCT Legal Administrative Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Bryan Lin
Legal Examiner
PCT Legal Administrative Office

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PCT LEGAL ADMINISTRATION

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of	:	DECISION ON
SAYRE et al	:	
Application No.: 10/914,391	:	
Filing Date: 09 August 2004	:	PETITION UNDER
Attorney's Docket No.: 29868-207134	:	
For: METHOD OF MAKING... OF ANIMAL	:	37 CFR §§1.78(a)(3)
NUTRITION	:	and (a)(6)

This is in response to applicants' communication "RECONSIDERATION OF PETITION AND AMENDMENT FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY," filed on 08 March 2012, which is being treated as a renewed petition under 37 CFR §§1.78(a)(3) and (a)(6).

In a decision from this Office on 01 February 2012, the petition filed under 37 CFR §§1.78(a)(3) and (a)(6) was dismissed because item (1) was not satisfied.

On 08 March 2012, petitioner filed a renewed petition under 37 CFR §§1.78(a)(3) and (a)(6) to establish the proper relationship to the prior filed applications.

The renewed petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Petitioner has now complied with items (1) - (3) under 37 CFR §§1.78(a)(3) and 1.78(a)(6).

Regarding requirement (1), a proper reference to the prior-filed applications has been included in the amendment filed on 01 February 2012 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).

Regarding item (2), the proper surcharge has been provided.

Regarding requirement (3), the proper statement has been provided.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

CONCLUSION

For the reasons above, the petition under 37 CFR §§1.78(a)(3) and (a)(6) is **GRANTED**.

Any questions concerning this matter may be directed to Rafael Bacares at (571) 272-3276. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application will be forwarded to Technology Center Art Unit 1611 for consideration by the examiner of applicants' entitlement to claim benefit to the prior-filed applications.

Rafael Bacares
Legal Examiner
PCT Legal Administrative Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Bryan Lin
Legal Examiner
PCT Legal Administrative Office

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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No.7,723,028	:	
Kormman, et al.	:	DECISION FOR REQUEST
Issue Date: May 25, 2010	:	FOR RECONSIDERATION
Application No. 10/914,396	:	OF PATENT TERM
Filed: August 9, 2004	:	ADJUSTMENT
Attorney Docket No. **24299-518CIP**	:	

This is a decision on the "Request for Reconsideration of Patent Term Indicated on Face of Patent under 37 CFR 1.705(d)," filed July 23, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from six hundred and sixty (660) days, to eight hundred and fifty-five (855) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given TWO (2) MONTHS from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On May 25, 2010, the above-identified application matured into U.S. Patent No. 7,723,028, with a revised patent term of 660 days. By the instant petition, patentees assert that the patent term should be adjusted by 195 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). It is noted that patentees failed to account for the filing of the notice of appeal on January 9, 2009. 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 195 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, January 9, 2009, and ending on the day the Request for Continued Examination was filed, July 22, 2009. Thus, the B delay is 517 days (712 – 195). Accordingly, the patent term adjustment is 660 days (457 days of A delay + 517 days of B delay – 10 days of overlap[1] - 304 days of applicant delay).

[1] The period of overlap between the "A" delay and the "B" delay is 10 days, not 0 days as patentees state. It is noted that, in this case where a Request for Continued Examination was filed, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A) begins on the day after the date that is three years from the date the application was filed under 35 U.S.C. 111(a), and ends on the day before the Request for Continued Examination was filed. 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 period of "A" delay began July 13, 2008, and ended July 22, 2008. The relevant period of "B" delay began February 21, 2008, and

In view thereof, the patent term adjustment of 660 days indicated in the patent is correct.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office is in receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

---

ended July 21, 2009, the day before the date the RCE was filed. There are 10 days in the period of "A" delay and "B" delay that occur on the same calendar day. Thus, the period of overlap between the "A" delay and the "B" delay is 10 days.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,636,490 :
Jay Li : DECISION ON REQUEST FOR
Issue Date: December 22, 2009 : RECONSIDERATION OF
Application No. 10/914,440 : PATENT TERM ADJUSTMENT
Filed: August 9, 2004 : AND NOTICE OF INTENT
Attorney Docket No. 15743US01 : TO ISSUE CERTIFICATE OF
Title: DEBLOCKING FILTER : CORRECTION
PROCESS WITH LOCAL BUFFERS :

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST ROR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on June 4, 2010. This petition was filed within two months of a decision by the Office mailed on May 4, 2010 granting applicant's request for reconsideration of PTA. Patentee requests a patent term adjustment of 1041, instead of the current patent term of 1038 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred four (1,041) days is **DISMISSED.**

Patentees contend that a 2-day reduction for the submission of the reply to the Notice of Allowance on November 9, 2009 should not be assessed. Patentees maintain that since a response was submitted on the first business day after the deadline falling on a weekend the reply was not late and no reduction is required.

Patentees' request for reconsideration of the 2-day reduction is untimely. The first request for reconsideration of the patent term adjustment was submitted on April 29, 2010, four months after the issuance of the patent. The Request for Recalculation of Patent Term Adjustment in View of Wyeth was pursuant to delays under 35 U.S.C. 154(b)(2)(A). Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(d) are untimely if not raised within two months of the date the patent issued.

Patentees also contend that the three year guarantee pursuant to 35 USC § 154(b)(1)(B) should be 385 days instead of the presently accorded 384 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 384 days. The calculation begins on the day after the date that is three years after the date the application was filed under 35 U.S.C. 111(a). See 37 CFR 1.703(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 August 10, 2007 and ends on August 27, 2008, the day before the RCE was filed, and is 384 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1038, not 1041 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 thirty-eight (1,038)** 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.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,636,490 B2

DATED : December 22, 2009 **DRAFT**

INVENTOR(S) : Li

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 779 days

Delete the phrase "by 779 days" and insert – by 1038 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)
7314646	2008-01-01	10914615	2004-08-09	66361(49163)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey D. Hsi/	Date (YYYY-MM-DD)	2012-01-31
Name	Jeffrey D. Hsi	Registration Number	40024

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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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In re Patent No. 7314646
Issue Date: January 1,2008
Application No. 10914615
Filed: August 9,2004
Attorney Docket No. 5853-538

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 31,2012 ,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 31,2012 .
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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STEVEN SHUYONG XIAO
2555 NANTEL
ST-LAURENT, QUEBEC, CANADA H4M 1K6

MAILED

OCT 27 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,208,756
Issue Date: April 24, 2007
Application No. 10/914,676
Filed: August 10, 2004
Title of Invention: **ORGANIC SEMICONDUCTOR DEVICES HAVING LOW CONTACT RESISTANCE**

This is a decision on the petition filed October 3, 2011, under 37 CFR 1.378(b), to accept the delayed payment of the 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(h). 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 Commissioner.

The patent issued on April 24, 2007. The first maintenance fee due could have been paid during the period from April 24, 2010 to October 25, 2010 or, with a surcharge during the period from October 26, 2010 to April 24, 2011. Accordingly, this patent expired on April 24, 2011 for failure to timely remit the first maintenance fee.

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).

Petitioner argues that "THIS PATENT HAS BEEN JUST BOUGHT FROM THE BANKRUPTED COMPANY-ORGANIC VISION INC.".

This petition lacks item (1) above.

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").[1] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[2] 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 unavoidable, all other conditions of promptness in its rectification being present.[3]

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.[4] That is, an adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent.[5]

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[1] 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)).

[2] 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").

[3] 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).

[4] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[5] Id.

Petitioner's arguments have been considered but are not persuasive.

Based upon the arguments proffered and the evidence provided, notwithstanding the alleged bankruptcy, it is not entirely clear as to who was responsible for paying the maintenance fees and whether they had steps in place to ensure the timely payment of the maintenance fees. Additionally, it is not apparent whether the person signing the statement of unavoidable delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. In view thereof, no evidence has been provided to establish that the delay in payment of the maintenance fee was unavoidable.

For all the reasons listed above, petitioner has not carried the burden of proof to establish to the satisfaction of the Director that the delay was unavoidable. There is a distinct difference between an unavoidable delay which, had there been reasonable care exercised, could not have been prevented and one that was inadvertent or the result of a mistake.

Since petitioner has not provided enough information for a determination that reasonable care was in fact exercised to ensure that the maintenance fee would be paid timely and that therein the delay was unavoidable, the argument fails.

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under the unavoidable standard, the petition will be dismissed.

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. The additional surcharge due in this instance would be $940.00.

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 surcharge (the fees paid $1305 can be applied towards the fees due). Effective September 26, 2011, the maintenance fee due at 3.5 years is set at $565 and the surcharge under the unavoidable standard is set at $700.00. The surcharge under the unintentional standard is set at $1640. At this writing, an additional $900 would be due if petitioner chose to file a petition under the unintentional standard.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking reinstatement 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).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEVEN SHUYONG XIAO
2555 NANTEL
ST-LAURENT, QUEBEC, CANADA H4M
1K6

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DEC 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,208,756
Issue Date: April 24, 2007
Application No. 10/914,676
Filed: August 10, 2004
Title of Invention: **ORGANIC SEMICONDUCTOR DEVICES HAVING LOW CONTACT RESISTANCE**

This is a decision on the petition filed December 12, 2011, under 37 CFR 1.378(c)[1], to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued on April 24, 2007. The first maintenance fee due could have been paid during the period from April 24, 2010 to October 25, 2010 or, with a surcharge during the period from October 26, 2010 to April 24, 2011. Accordingly, this patent expired on April 24, 2011 for failure to timely remit the first maintenance fee. A petition and fees in the amount of $1305, filed October 3, 2011 to accept the delayed payment of the maintenance fee, under 37 CFR 1.378(b), was dismissed in a decision mailed October 27, 2011.

Comes now petitioner with the instant petition and additional fees in the amount of $900. Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision. Fees in the amount of $565.00 for the first maintenance fee and $1640.00 for the surcharge have been applied.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(l)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110830

DATE : August 30, 2011

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction on Patent No.: 7,224,578

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:

It is O.K. to enter the proposed changes.

/TIMOTHY THOMPSON/
Supervisory Patent Examiner.Art Unit 2835

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OFFICE OF PETITIONS

Flindt Intellectual Property Law Group, PLLC
P.O. Box 1390
Issaquah WA 98027-0057

In re Application of :
Wilson, et al. :
Application No. 10/914,894 : DECISION DISMISSING PETITION
Filed: August 9, 2004 :
Attorney Docket No. **RTI-002US01** :

This is a decision on the petition under 37 CFR 1.137(a) filed May 4, 2011.

The petition is **dismissed**.

A review of the petition document and reply reveals that it is signed by only Richard F. Brunst, Jr., who is listed as a joint inventor on the above-cited application. It is noted that 37 CFR 1.33(b) provides, that:

> (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 attorney or 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.

It does not appear that Mr. Brunst, alone, is authorized to sign the petition document. The petition has not been considered on its merits because it is not signed by an appropriate person(s) under 37 CFR 1.33(b). The petition is dismissed, accordingly. Any renewed petition filed and reply must be signed by all of the joint inventors, a registered patent agent, or the assignee empowered under 37 CFR 3.73(b). **No additional petition fee is required to accompany the renewed petition.**

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450

Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Richard F. Burnst, Jr.
PO Box 157
Orem, UT 84059

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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Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 08/03/2010

Applicant	: David Boone	: DECISION ON REQUEST FOR
Patent Number	: 7645540	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/914,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2046** 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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Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

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JAN 11 2011

OFFICE OF PETITIONS

In re Patent of Boone et al. :
Patent No. 7,645,540 :
Issue Date: January 12, 2010 :
Application No. 10/914,934 :
Filing Date: August 9, 2004 :
Attorney Docket No. 27860-35 :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This decision is in response to the "Petition for Reconsideration of Recalculation of Patent Term Adjustment" filed August 27, 2010, stating the correct patent term adjustment is one thousand four hundred seventy-one (1471) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent issued January 12, 2010, with a revised patent term adjustment of 896 days.

A request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) was filed January 20, 2010. The request stated the correct patent term adjustment is one thousand four hundred seventy-one (1471) days.

The Office issued a decision granting the request on May 4, 2010. The decision stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by one thousand four hundred seventy-one (1471) days.

The Office issued a certificate of correction on June 29, 2010, indicating the term of the patent is extended or adjusted by one thousand four hundred seventy-one (1471) days.

Patentees filed a "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" on June 30, 2010.

The Office issued a decision granting the June 30, 2010 request on August 3, 2010. The decision stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by two thousand forty-six (2046) days.

Patentees filed the instant petition on August 27, 2010. The petition asserts the correct number of days of patent term adjustment is 1,471 days.

The Office agrees the proper patent term adjustment is 1,471 days. Therefore, the petition is granted.

As previously noted, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by 1,471 days on June 29, 2010.

The Certificates of Correction Branch will be informed of the instant decision to ensure a certificate of correction indicating a patent term adjustment of 2,046 days is **not** issued pursuant to the August 3, 2010 decision because the proper patent term adjustment is 1,471 days as stated in the certificate of correction issued June 29, 2010.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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BRIAN STEINBERGER/UCF
101 BREVARD AVENUE
COCOA FL 32922

MAILED
DEC 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,359,015 :
Issued: April 15, 2008 :
Application No. 10/915,070 : NOTICE
Filed: August 10, 2004 :
Attorney Docket No. UCF -464 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 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**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: PA-085.11240-US(04-125)	
Application Number: 10/915,158	Filing Date (or 371(b) or (f) Date): August 9, 2004
Patent Number: 7,666,512	Issue Date: February 23, 2010
First Named Inventor: Tania Bhatia	
Title: THERMAL RESISTANT ENVIRONMENTAL BARRIER COATING	

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 /y. lynnette kelly/	Date August 20, 2010
Name (Print/Typed) Y. Lynnette Kelly	Registration Number 60,010

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 09/13/2010

Applicant	: Tania Bhatia	: DECISION ON REQUEST FOR
Patent Number	: 7666512	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/915,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/915,323	08/11/2004	Carl Edward Norman	257349US2CRL	7605

22850 7590 10/12/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
CHIN, CHRISTOPHER L	
ART UNIT	PAPER NUMBER
1641	

NOTIFICATION DATE	DELIVERY MODE
10/12/2010	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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OCT 1 2 2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Carl Edward Norman : PETITION REGARDING IDS
Serial No.: 10/915,323
Filed: August 11, 2004
Attorney Docket No: **257349US2CRL**

This is in reply to the petition filed September 23, 2010 under 37 CFR § 1.181 to consider reference AW in the Information Disclosure Statements (IDS) filed in on December 8, 2005.

Applicant points out "On December 8, 2005, applicant filed the above-noted IDS under 37 CFR §§ 1.97 and 1.98, which filing is clearly documented in the electronic image file wrapper of the USPTO. The examiner responded to this IDS filing by supplying the applicant with a copy of the Form **PTO-1449** on which the Reference AW has not been initialed".

DISCUSSION

Applicant's point is well taken that reference AW was not initialed whereas the other references were initialed.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for consideration of reference AW on the IDS filed on December 8, 2005.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/915,333	08/11/2004	Kohji Shimizu	257214US2	7601

22850 7590 11/29/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
SCHMIDT, KARI L	

ART UNIT	PAPER NUMBER
2439	

NOTIFICATION DATE	DELIVERY MODE
11/29/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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OBLON, SPIVAK, MCLELLAND MAIER & NEUSTADT, L.L.P
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of: SHIMIZU, K. et. al.
Application No.: **10/915,333**
Filed: August 11, 2004
Docket No.: 257214US2
Title: INFORMATION PROCESSING APPARATUS, INFORMATION PROCESSING METHOD, INFORMATION PROCESSING PROGRAM AND RECORDING MEDIUM

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on **October 06, 2011** under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the PTO-1449 filed with the Information Disclosure Statements (IDS) on December 13, 2010.

The petition is **DISMISSED AS MOOT**.

A review of the file of the instant application indicates that on November 21, 2011, the Office considered each of the references listed on the PTO-1449 above mentioned and that applicant was informed of such via a PTO-90C communication. Since each of those references listed on the above mentioned IDS has already been considered, this petition is rendered moot.

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, Hassan Kizou, Quality Assurance Specialist, can be reached at (571) 272-3088.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist (QAS)
Technology Center 2400

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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Kuo et al.	:	
Application No. 10/915625	:	ON APPLICATION FOR
Filed: 08/10/2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
069642-8101	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 CFR §1.705(b), filed on July 29, 2010. Applicants request that the determination of patent term adjustment be increased from 705 days to 1304 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The request is **DISMISSED**.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **DISMISSED.**

On July 6, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 705 days (950 days of PTO delay and 245 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants assert, via the PTA Calculation sheet filed concurrently with the petition, that the applicant delay should be 159 days. As such, applicants assert that the period of reduction of 86 days for applicant delay in connection with the supplemental response (IDS) filed on March 25, 2010, is incorrect and should be removed.

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of 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.

On December 29, 2009, a reply was filed. On March 25, 2010, the subject reply, including an Information Disclosure Statement (IDS) was filed, 86 days after the day after the date the reply of December 29, 2009, was filed. The IDS did not include the

[2] PALM Records indicate that the issue fee was paid on July 29, 2010.

statement set forth at § 1.704(d). Accordingly, entry of a period of reduction of 86 days for applicant delay is warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 705 days (950 days of Office delay less 245 (90 + 69 + 86) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,842,303 :
Issue Date: November 30, 2010 :
Application No. 10/915,625 : DECISION ON PETITION
Filed: August 10, 2004 :
Attorney Docket No. 069642-8101 :

This is a decision on the Petition Under 37 C.F.R. §1.183 and Request For Certificate Of Correction Pursuant To 37 C.F.R. §1.323, filed January 14, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (Modified PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (Modified PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,842,303.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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ONE FINANCIAL CENTER
BOSTON MA 02111

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FEB 24 2011

OFFICE OF PETITIONS

In re Application of
Juha A. Rasanen
Application No. 10/915,636
Filed: August 11, 2004
Attorney Docket No. 39700-795001US/NC40048US

: 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 February 23, 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 February 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025

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JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
John Stephen Smith :
Application No. 10/915,725 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. 03424.P064 :

This is a decision in response to the petition filed December 13, 2010, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned April 27, 2010 for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed March 25, 2010. The Notice set a one month period for reply, no response having been filed, a Notice of Abandonment was mailed October 27, 2010.

The file record discloses that the Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed March 25, 2010 to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Notice of Non-Compliant Amendment (37 CFR 1.121) was not received. In support, petitioner indicates that a search of the file jacket and the docket records revealed that the Office Communication was not received and submits copies of pages from docket records, wherein receipt would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Non-Compliant Amendment (37 CFR 1.121).

In view of the facts set forth in the petition, it is concluded that the Notice of Non-Compliant Amendment (37 CFR 1.121) was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2612 for appropriate action on the response filed December 13, 2010 with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Nancy Johnson for

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Applied Materials, Inc.
Legal Dept. M/S 2061
P.O. Box 450A
Santa Clara, CO 95052

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OFFICE OF PETITIONS

In re Patent of Bikram Kapoor et al.	:	DECISION ON REQUEST
Patent No. 7,595,088	:	FOR RECONSIDERATION OF
Issue Date: September 29, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/915,781	:	AND NOTICE OF INTENT TO
Filing Date: August 10, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 016301-049410US	:	CORRECTION

This is a decision on the petition filed May 5, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand one hundred ninety-four (1194) days.[1]

The petition to correct the patent term adjustment to indicate the term of the patent is extended or adjusted by one thousand one hundred ninety-four (1194) 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.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand one hundred ninety-four (1194)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

[1] The petition was filed within one month of April 21, 2010, the date the Office mailed a decision in response to the "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*." Therefore, the petition is timely.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,595,008 B2
APPLICATION NO.	:	10/915,781
DATED	:	September 29, 2009
INVENTOR(S)	:	Bikram Kapoor 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 1007 days.

Delete the phrase "by 1007 days" and insert -- by 1194 days--

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OFFICE OF PETITIONS

In re Patent No.: 7,229,367
Issue Date: 12 June, 2007
Application No. 10/915,822
Filed: 11 August, 2004
Attorney Docket No. 011960-9002

DECISION

This is a decision on the petition filed on 19 May, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

The address on the petition is other than that 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.

Petitioner is reminded to chart out the data as to: fee code, fee paid, fee presently due, and totals. (*See*: 37 C.F.R. §1.27, §1.28, MPEP §509.02, et seq.)

The Office does not attempt to infer the specifics of a Petitioner's intents.

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**.

Patent No.: 7,229,367
Application No. 10/915,822

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 the IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

CC
NOTARO MICHALOS & ZACCARIA PC
100 DUTCH HILL ROAD
ORANGEBURG, NY 10962

---

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 08 2010

OFFICE OF PETITIONS

Paper No.

DECHERT, LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

In re Application of :
Davis et al. :
Application No. 10/915,927 : ON APPLICATION FOR
Filed: August 11, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 376247-005 US :
(367201) :
Title: GLUCOSE DEHYDROGENASE :
POLYPEPTIDES AND RELATED :
POLYNUCLEOTIDES :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b)," filed May 29, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least six hundred and forty (640) days, not twenty-three (23) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicant contends that one period of applicant delay was improperly assigned.

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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that Applicant otherwise requests 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 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.

A response to a non-final Office action was received on July 7, 2009, a Notice of Non-Compliant Amendment was mailed on October 29, 2009, and a response to said notice was received on November 30, 2009, which is 146 days after the response of July 7, 2009 was received. As such, the omission in the first response was corrected by the subsequent response, which resulted in 146 days of Applicant delay, pursuant to 37 C.F.R. § 1.704(c)(7).[2]

Applicant disputes this 146-day reduction, and asserts that the reduction should not be assessed as the Notice of Non-Compliant Amendment was mailed in error. More specifically, Applicant asserts that the Notice was mailed "based on a misunderstanding" by the Examiner: in the July 7, 2009 submission, Applicant "referred to the paragraph numbering in the originally filed application" and indicated that the "paragraph number referred to that in the 'as filed' specification."[3] The Examiner subsequently mailed the aforementioned notice, indicating that the paragraph numbering in the amendment did not match that of the subsequently filed substitute specification (submitted on December 12, 2008).

Put another way, a specification was deposited on filing. A substitute specification was deposited on December 12, 2008. In the response of July 7, 2009, Applicant used the paragraph numbering from the original specification instead of the numbering from the substitute specification, and the Examiner required the numbering from the latter.

Applicant's argument has been considered, and has been deemed to be unpersuasive. The process of submitting a substitute specification to the Office is set forth in 37 C.F.R. § 1.121(b)(3), which requires the submission of:

> "(i) An instruction to replace the specification; and
> (ii) A substitute specification in compliance with §§ 1.125(b) and (c)."

On December 12, 2008, Applicant submitted, *inter alia*, a substitute specification. The transmittal letter which was included therewith explicitly referred to the submission as a

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[2] "Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed."

[3] Statement of facts submitted concurrently with this petition, page 2.

"substitute specification under 37 CFR §1.125." As such, the Office construed the submission to contain "an instruction to replace the specification," as is required by 37 C.F.R. § 1.121(b)(3)(i). It follows that once the substitute specification of December 12, 2008 was entered, the specification that had been included on filing had been replaced by the substitute specification.

Both the amendment to the specification and the Notice of Non-Compliant Amendment have been reviewed. On the sixth page of the July 7, 2009 response appears the phrase "the 'as-filed' specification." This terminology is unclear at best, as it does not differentiate between the specification that was included on initial deposit on August 11, 2004 (which had been replaced), or the then-current substitute specification that was submitted on December 12, 2008. However, the Examiner's interpretation of Applicant's submission was reasonable, for it does not make sense to refer to outdated specification content that is associated with a specification that has been replaced.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 2705-0356	
Application Number: 10/916,054	Filing Date (or 371(b) or (f) Date): August 9, 2004
Patent Number: 7,668,158	Issue Date: February 23, 2010
First Named Inventor: R. Ashby Armistead	
Title: Packet-Switched Telephony With Circuit-Switched Backup	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 08/17/2010

Applicant	: R. Ashby Armistead	: DECISION ON REQUEST FOR
Patent Number	: 7668158	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/916,054	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1574** 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.:20120204-A

DATE : February 6, 2012

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7666979

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: /Cecilia Tsang/ **Art Unit** 1654

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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 :
Thomas Q. Dinh et al. :
Application No. 10/916,159 : DECISION ON PETITION
Filed: August 11, 2004 : TO WITHDRAW
Attorney Docket No.: 134.02000101 (P-11578) : 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**.

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 Kenneth J. Collier on behalf of the practitioners of record associated with Customer Number 27581.

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 petitioner requested the change of correspondence address to the assignee associated with Customer Number 28390. Customer Number 28390 identifies Medtronic Vascular, Inc as the assignee. The Office record show Medtronic, Inc as the assignee; therefore, the assignee data is unclear.

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

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P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Thomas Q. Dinh et al. :
Application No. 10/916,162 : DECISION ON PETITION
Filed: August 11, 2004 : TO WITHDRAW
Attorney Docket No. 134.01970101(P-11254) : 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)
7066485	2006-06-27	10916542	2004-08-12	P06288US08

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-11-02
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7066485
Issue Date: June 27,2006
Application No. 10916542
Filed: August 12,2004
Attorney Docket No. P06288US08

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 2,2010 ,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 2,2010 . 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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
DEC 02 2011
OFFICE OF PETITIONS

In re Patent No. 7,684,628 :
Issue Date: March 23, 2010 :
Application No. 10/916,599 : ON PETITION
Filed: August 12, 2004 :
Attorney Docket No. 054788/347799

This is a decision on the petition filed November 15, 2011 under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 16, 2010

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction for Appl. No.: 10916684 Patent No.: 7740563

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: Okay to enter. /Oren Ginsberg 11-16-2010/

_____ **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

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NOV 22 2010

OFFICE OF PETITIONS

Hugh D. Jaeger, Esq.
Hugh D. Jaeger, P.A.
P.O. BOX 432
WAYZATA MN 55391-0432

In re Patent No. 6,902,153 :
Issue Date: June 7, 2005 :
Application No. 10/916,688 : ON PETITION
Filed: August 11, 2004 :
Attorney Docket No. **KENTON** :

This is a decision on the petition under 37 CFR 1.378(c), filed August 9, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

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.

The 3.5 year maintenance fee was the timely paid December 2, 2008. Patentee, petitioner herein, asserts that the patent is expired for failure to pay the 7.5 year maintenance fee. However, the 7.5 year maintenance fee is due from June 7, 2012 to December 7, 2012 without a surcharge or from December 8, 2012 to June 7, 2013 with a surcharge. In other words, the instant patent is not expired.

Accordingly, 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.

A refund has been requested from the Finance Office on behalf of patentee who paid by credit card. It is noted that patentee's mailing address is not set forth in the petition. Accordingly, the instant decision is being directed to the correspondence address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the unsigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7965646 B2
Application No.: 10/916725
Inventor(s) : Steven M. Casey
Issued : 06/21/2011
Attorney Docket No.: 020366-093200US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323

The certificate of correction does not accompany transmittal and the fee which is required to process the certificate of correction under the provision of 37 C.F.R. 1.323 for applicant errors. In view of the foregoing, your request, in this matter, is hereby denied.

Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
703-756-1580 or (703) 756-1814
Date: 03/02/2012

Address: Gretchen Testerman
Qwest Communications International Inc.
1801 California Street, 9th Floor
Denver, Colorado 80202

/ts

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 20, 2010

TO SPE OF : ART UNIT 2613
SUBJECT : Request for Certificate of Correction for Appl. No/10917136 -7418213

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: _____

/Ken Vanderpuye/ **2613**

UNITED STATES 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. 7234010
Issue Date: June 19,2007
Application No. 10917433
Filed: August 11,2004
Attorney Docket No. GID-0002-D

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 22,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 22,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7234010	2007-06-19	10917433	2004-08-11	GID0002USD

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Daniel A. Gilmour/	Date (YYYY-MM-DD)	2011-09-22
Name	Daniel A. Gilmour		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ, LLP
PO BOX 2207
WILMINGTON DE 19899

In re Application of :
QIU, et al :
Application No. 10/917,474 : ON PETITION
Filed: August 13, 2004 :
Attorney Docket No. 14113-00196-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 October 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 27, 2011. A Notice of Abandonment was mailed June 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1786 for appropriate action by the Examiner.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: CONNOLLY BOVE LODGE & HUTZ LLP
1007 NORTH ORANGE STREET
P.O. BOX 2207
WILMINGTON, DE 19899-2207

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Greg Goshorn, P.C.
9600 Escarpment
Suite 745-9
Austin, TX 78749

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Application of
Michael Voticky
Application No. 10/917,651
Filed: August 13, 2004
Attorney Docket No. VOTI004US0

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on January 6, 2010. A Notice of Abandonment was mailed on July 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3622 for review of the amendment filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STREETS & STEELE
13100 WORTHAM CENTER DRIVE,
SUITE 245
HOUSTON TX 77065

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NOV 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,278,591 :
Issue Date: October 9, 2007 :
Application No. 10/917,691 : NOTICE
Filed: August 13, 2004 :
Attorney Docket No. 27475/11077 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 17998.15.2	
Application Number: 10/917,701	Filing Date (or 371(b) or (f) Date): August 13, 2004
Patent Number: 7,658,760	Issue Date: February 9, 2010
First Named Inventor: Brian Lee Pelton	
Title: THERMOELASTIC AND SUPERELASTIC NI-TI-W ALLOY	

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 /Marcus S. Simon, Reg.# 50258/	Date August 6, 2010
Name (Print/Typed) Marcus S. Simon	Registration Number 50,258

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

Mail Date: 08/13/2010

Applicant	: Brian Lee Pelton	: DECISION ON REQUEST FOR
Patent Number	: 7658760	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/917,701	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,351,658 :
Issue Date: April 1, 2008 :
Application No. 10/917,906 : ON PETITION
Filed: August 13, 2004 :
Attorney Docket No. SEPP10.001C1C1 :

This is a decision on the REQUEST UNDER 37 C.F.R. §3.81(b) filed January 5, 2009, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction. This request was recently forwarded to the undersigned for consideration.

The petition is **DISMISSED**.

By decision mailed September 29, 2008, a prior REQUEST FOR A CERTIFICATE OF CORRECTION filed August 4, 2008 was dismissed.

Petitioner requests issuance of a certificate of correction in the name of "ASM International N.V.."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

Consistent with the issue fee transmittal filed February 4, 2008, which left the assignee information blank, no assignee data appeared on the issued patent. Further, no assignment to

ASM International N.V." was of record in the Office as of the date of issuance of the patent. The referenced assignment at reel/frame No. 014852/0964 does not on its face show that the instant patent was assigned to ASM International N.V. at the time of issuance of the patent.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents.
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Tennagels et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,803,571	:	PATENT TERM ADJUSTMENT
Issue Date: 09/28/2010	:	
Application No. 10/918015	:	
Filing or 371(c) Date: 08/13/2004	:	
Attorney Docket Number: DEAV2003/0061 US NP	:	

This is a decision on the petition filed on November 24, 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 seven hundred sixty-four (764) 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 seven hundred sixty-four (764) days is **DISMISSED**.

Applicants request 370 days of patent term adjustment pursuant to 37 CFR 1.703(b), in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), August 14, 2007, and ending on the day before the date a Request for Continued Examination ("RCE"), was filed, August 17, 2008.

As to the "B" delay, the period is 156 days, not 370 days. This period begins on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), and ends on August 17, 2008, the day before the RCE was filed, and is 370 days, but does not include the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, August 17, 2008, or 214 days. See, 35 U.S.C. 154(b)(1)(B)(ii). Thus, the "B" delay period is 156 days (370 days – 214 days), not 370 days[1].

[1] The Office notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Cindy S. Kaplan
P.O. BOX 2448
SARATOGA, CA 95070

Mail Date: 08/31/2010

Applicant	: Muthurajah Sivabalan	: DECISION ON REQUEST FOR
Patent Number	: 7646772	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/918,089	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1514** 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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VALLEY FORGE PA 19482

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JAN 24 2011

OFFICE OF PETITIONS

In re Patent No. 7,203,001	:	
Issued: April 10, 2007	:	
Application No. 10/918,299	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 23238-005001	:	

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 10, 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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Robert K. Cerpa
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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INFINEON
PO BOX 10395
CHICAGO IL 60610

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MAR 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Ronald Kakoschke, et al.	:	
Application No. 10/918,335	:	DECISION GRANTING PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10808/153	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 23, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Edward Machado 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. Machado desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

---

[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 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

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FEB 18 2011

OFFICE OF PETITIONS

In re Application of :
Davy Lapa, et al. :
Application No. 10/918,616 : ON PETITION
Filed: August 12, 2004 :
Attorney Docket No.: 130373.010200 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 22, 2009. A Notice of Abandonment was mailed on February 1, 2010. On February 22, 2010 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed May 27, 2010. In response, on December 9, 2010, the present petition was filed, along with an appropriate 5-month petition for extension of time.

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, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

Since the application was filed after June 8, 1995, no terminal disclaimer is required. Therefore the terminal disclaimer filed February 22, 2010 is **not** accepted and the $70 fee paid therefor is subject to refund. Any request for refund must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

This application is being referred to Technology Center AU 3715 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Ammar, et al. :
Application No. 10/918,652 : NOTICE
Filed: August 12, 2004 :
Attorney Docket No. 25960-636001US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bib Data Sheet

CONFIRMATION NO. 4092

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/918,652	08/12/2004 RULE	455	2618	25960-636001US

APPLICANTS

Danny F. Ammar, Windermere, FL;
Heung K. Tsang, Lake Mary, FL;

**** CONTINUING DATA ***************************

This appln claims benefit of 60/494,916 08/13/2003

**** FOREIGN APPLICATIONS ********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 10/15/2004

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	FL	7	28	4

35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance

Verified and Acknowledged _____ Examiner's Signature Initials

ADDRESS
30623

TITLE

TONELESS TELEMETRY IN A WIRELESS SYSTEM

FILING FEE RECEIVED		
876	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Jaroslaw Wojtowicz	:	
Application No. 10/918,668	:	DECISION GRANTING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TEK04-1005	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 20, 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 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2474 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JEFFREY S. WHITTLE
BRACEWELL & PATTERSON
P.O. BOX 61389
HOUSTON, TX 77208-1389

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of
Nicholas McMahon Turner et al
Application No. 10/918,712
Filed: August 13, 2004
Attorney Docket No. 048717.003

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition filed March 21, 2005, which is being treated as a petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors, Nicholas McMahon Turner and Simon John Patrick O'Riordan, have refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (571) 272-3210.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nicholas McMahon Turner
The Hermitage
Walton Road
York, Y032 9TL
England

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of
Nicholas McMahon Turner; Peter Alfred Payne; G. Alban Davis; Julie A. Davies; Simon John Patrick O'Riordan
Application No. 10/918,712
Filed: August 13, 2004
For: Medical Devices

Dear Mr. Turner:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (571) 272-3210. 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 (571) 272-3150 or 1 (800) 972-6382 (outside the Washington D.C. area).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Jeffrey S. Whittle
Bracewell & Patterson
P.O. Box 61389
Houston, TX 77208-1389

UNITED STATES PATENT AND TRADEMARK OFFICE

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Simon John Patrick O'Riordan
5 Scargill Grange
Leeds
Yorkshire, LS9 7ES
England

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of
Nicholas McMahon Turner; Peter Alfred Payne; G. Alban Davis; Julie A. Davies; Simon John Patrick O'Riordan
Application No. 10/918,712
Filed: August 13, 2004
For: Medical Devices

Dear Mr. O'Riordan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (571) 272-3210. 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 (571) 272-3150 or 1 (800) 972-6382 (outside the Washington D.C. area).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Jeffrey S. Whittle
Bracewell & Patterson
P.O. Box 61389
Houston, TX 77208-1389

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JUN 15 2011
OFFICE OF PETITIONS

In re Application of
Nicholas McMahon Turner et al
Application No. 10/918,712
Filed: August 13, 2004
Attorney Docket No. 048717.003

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition filed March 21, 2005, which is being treated as a petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors, Nicholas McMahon Turner and Simon John Patrick O'Riordan, have refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (571) 272-3210.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Ivan Bjerre Damgaard, et al.	:	
Application No. 10/918,717	:	DECISION GRANTING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2804-002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, June 22, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 28, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2435 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Paper No.

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210 SW MORRISON STREET,
SUITE 400
PORTLAND OR 97204

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Damgaard et al.	:	DECISION ON APPLICATION
Application No. 10/918,717	:	FOR
Filed: August 12, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
2804-002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed on February 28, 2011. Applicants request that the initial determination of patent term adjustment increased by 261 days.

On November 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 (PTA) to date is 417 days.

However, prior to a decision on the letter regarding patent term adjustment being rendered, on June 22, 2011, applicants filed a petition to withdraw from issue along with a request for continued examination (RCE). By decision mailed June 23, 2011, the withdrawal from issue was granted. Prosecution was reopened.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicants must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is

properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice.

Technology Center AU 2435 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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BAKER & MCKENZIE LLP
PENNZOIL PLACE SOUTH TOWER
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HOUSTON TX 77002

MAILED
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OFFICE OF PETITIONS

In re
Shults, et al.
Application No. 10/918,785
Filed: August 13, 2004
Patent No. 7,326,577
Issued: February 5, 2008
Attorney Docket No. 31175369-007002

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 9, 2011.

The fee deficiency submission under 37 CFR 1.28 of $740 is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MAILED
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OFFICE OF PETITIONS

In re Patent No. 7,193,021 :
Issue Date: March 20, 2007 :
Application No. 10/918,804 : DECISION ON PETITION
Filed: August 16, 2004 : UNDER 37 CFR 1.378(b)
Title: SOLUBLE ANILINE-THIOPHENE :
COPOLYMERS :
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 March 20, 2007. The 7.5-year maintenance fee could have been paid from March 20, 2010, through September 20, 2010, or with a surcharge during the period from September 21, 2010 through March 20, 2011. Accordingly, the patent expired at midnight March 20, 2011, for failure to timely submit the 7.5-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), (2), and (3) 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.

As to item (2), petitioner submitted $1240.00 towards payment of the $1425.00 maintenance fee.

As to item (3), petitioner submitted $65.00 towards payment of the $700.00 unavoidable surcharge.

Petitioner should also note that 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 $65.00 already submitted could be applied to the $1,640 unintentional owed under 37 CFR 1.378(c), leaving a balance due of $1575.00.

Further, the petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

The 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

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Patent No. 7,193,021 :
Application No. 10/918,804 :
Filed: August 16, 2004 : ON PETITION
Issued: March 20, 2007 :
Title: SOLUBLE ANILINE-THIOPHENE COPOLYMERS :

This is a decision on the petition under 37 CFR 1.378(c), filed January 5, 2012, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks items (1) above.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Petitioner has failed to comply with item (1) as listed above. The required statement, "The delay in payment of the maintenance fee to this patent was unintentional," can be found on the USPTO form PTO/SB/66, which is enclosed for petitioner's convenience.

Further, since the instant petition is on the behalf of the assignee, it does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is

recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

As a 37 CFR 3.73(b) has not yet been received, the Change of Correspondence received January 9, 2012 cannot be entered. 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 if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on September 30, 2011 and January 5, 2012. 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: STEVEN SHUYONG XIAO
2555 NANTEL
ST-LAURENT, QUEBEC H4M 1K6
CANADA

Enclosure: PTO/SB/66
PTO/SB/96

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GINGER W. SANDERS
841 CORPORATE DRIVE, SUITE 201
LEXINGTON KY 40503

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Patent No.6,975,748 :
Issue Date: 13 December, 2005 :
Application No. 10/918,821 : DECISION ON PETITION
Filed: 13 August, 2004 :
Attorney Docket No. 1183-001 Div. :

This is a decision on the petition filed on 18 January, 2011, and properly treated as a petition under 37 C.F.R. §1.378(b)[1] requesting acceptance of payment of a maintenance fee for the above-referenced patent as having been delayed due to unavoidable delay.

NOTE: *The address on the petition is different than that of record.*

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice 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.

The petition (with fee) herein pursuant to 37 C.F.R. §1.378(b) was filed on 18 January, 2011. It is noted for the record that Petitioner could have filed a petition (with fee) pursuant to 37 C.F.R. §1.378(c)—in which the burden of proof was less demanding—but appears not to have done so.

The petition pursuant to 37 C.F.R. §1.378(b) is **DISMISSED**.

[1] A grantable petition to accept a delayed maintenance fee payment under 37 C.F.R. §1.378(b) must be include
(1) the required maintenance fee set forth in §1.20(e) through (g);
(2) the surcharge set forth in §1.20(l)(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.

If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §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 C.F.R. §1.136(a) or (b).

A petition for reconsideration **must** be accompanied by the petition fee of $400.00 as set forth in 37 C.F.R. §1.17(f).

The petition for reconsideration **shall** include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

A petition to accept the delayed payment of a maintenance fee under 35 USC §41(c) and 37 C.F.R. §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;*
>
> *(2) payment of the appropriate maintenance fee, unless previously submitted; and*
>
> *(3) payment of the surcharge set forth in 37 C.F.R. §1.20(i)(1).*

The instant petition fails to satisfy requirement (1), listed/described above.

BACKGROUND

Patent No. Patent No.6,975,748 (the '748 patent) issued on 13 December, 2005. The first maintenance fee could have been paid during the period from 13 December, 2008, through midnight 13 March, 2009, or, with a surcharge, during the period from 14 March, 2009, through midnight 13 December, 2009. Accordingly, the patent expired after midnight 13 December, 2009, for failure to pay timely the first maintenance fee.

The instant petition (with fee) pursuant to 37 C.F.R. §1.378(b) was filed on 18 January, 2011. It is noted for the record that Petitioner could have filed a petition (with fee) pursuant to 37 C.F.R. §1.378(c), but appears not to have done so.

STATUTE AND REGULATION

The grant of authority at 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...after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

The regulations 37 C.F.R. §1.378(b)(3) thus set forth 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. (Emphasis supplied.)

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 of candor and duty to disclose.[2]

OPINION

The Director may accept late payment of the maintenance fee under 35 U.S.C. §41(c) and 37 C.F.R. §1.378(b) if the delay is shown to the satisfaction of the Director to have been "unavoidable."[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 the identical language, i.e., "unavoidable" delay.[4] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[5] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[6] Finally, a petition to revive an application or reinstate a patent as abandoned or expired due to

---

[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)(Petitioner obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §41(c)(1).

[4] *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)).

[5] *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); *In re Mattullath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[6] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

unavoidable delay cannot be granted where a Petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[7]

Petitioner's Contentions
as to Unavoidable Delay

Petitioner *pro se* Paul S. Mostert, PhD. (Petitioner) sought relief on behalf of patentee/assignee the Mostert Group, pursuant to the regulations at 37 C.F.R. §1.378, averring unavoidable delay.

As noted above, Patent No. Patent No.6,975,748 (the '748 patent) issued on 13 December, 2005. The first maintenance fee could have been paid during the period from 13 December, 2008, through midnight 13 March, 2009, or, with a surcharge, during the period from 14 March, 2009, through midnight 13 December, 2009. Accordingly, the patent expired after midnight 13 December, 2009, for failure to pay timely the first maintenance fee. While the instant petition (with fee) pursuant to 37 C.F.R. §1.378(b) was filed on 18 January, 2011, it is noted for the record that Petitioner could have filed a petition (with fee) pursuant to 37 C.F.R. §1.378(c), but appears not to have done so.

Petitioner presents:

- Petitioner's three- (3-) page statement;
- A seven- (7-) page (with signatures) Principal Investigator (researcher) agreement;
- An eight- (8-) page security agreement with database listing;
- Two pages of advisory documents from an entity identified a PatentValuePredictor.com to Petitioner;
- Correspondence from the firm of King & Shickli to Petitioner on 24 January, 2006, and to Ms. Ginger W. Sanders (President of EQUIX) on 7 June, 2007;
- Copies of a memorandum (and attachments thereto) filed of record in litigation (Commonwealth of Kentucky, Fayette Circuit Court, Eighth Division, Civil Branch: Mostert Group v. Paul Mostert, 06-CI-2927) on or about 11 March, 2008, and a Court entered of record in the litigation on 22 February, 2010.

The sum and substance of the petition is that, Petitioner has been involved in litigation with the managers of the Mostert Group (now doing business as EQUIX Biomechanix (EQUIX).

There is no showing of record as to the docketing/calendaring of maintenance fees for the instant matter—or in whom such responsibility for docketing lay, and or who performed the

[7] *Haines v. Quigg*, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

administrative task of docketing the maintenance fee schedule in this matter, and whether they did so erroneously. Thus, there is no showing of a failure that was systemic—such as that which occurs when a computer or computer program fails. Possibly the error was of another form: plain human error, which is a delay that is not unavoidable but unintentional—however such a consideration is not before the Office.

In any case, such facts as have been recited do not suggest diligence—at least a level of diligence as required herein—on the part of those who were supposed to attend to this matter.

The provisions of 35 U.S.C. §41(c)(1) do 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.[8] The provisions of 35 U.S.C. §133 do 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/assignee'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.[9]

This the Petitioner and/ or patentee has/have not done.

At bottom, the question is one of diligence.[10]

Because 35 U.S.C. § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 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.[11] 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 C.F.R. §1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the third/last maintenance fee for this patent.[12] There are three periods to be considered during the evaluation of a petition under 37 C.F.R. §1.378(b):

(1) The delay in reply that originally resulted in expiration;

(2) The delay in filing an initial petition pursuant to §1.378(b) to reinstate the patent; and

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[8] *See Commissariat A. L'Energie Atomique v. Watson*, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

[9] *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.*

[10] *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). *See also: Ray v. Lehman, supra.*

[11] *Ray*, 55 F.3d at 609, 34 USPQ2d at 1788.

[12] *Id.*

(3) The delay in filing a grantable petition pursuant to §1.378(b) to reinstate the patent.[13]

At the outset and as of this writing, the showing is not persuasive with regards to the nature of the delay in reply that originally resulted in expiration or as to the filing of the initial petition (Items 1 and 2), which are the periods pertinent at this time.

Petitioner must provide documentary foundations in support of a showing of unavoidable delay.

Thus, at this writing the statements presented in/with the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 C.F.R. §1.378(b).

A showing of diligence in matters before the Office is essential to support a finding of unavoidable delay herein.[14] There is no "sliding scale" based upon the priority given to this maintaining this patent in force, or more diligently seeking reinstatement, *vis-a-vis* other matters by Petitioner. 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.

At this writing the record fails to adequately evidence the exercise of due care and diligence observed by prudent and careful persons, in relation to their most important business, which is necessary to establish unavoidable delay.[15]

The record at this writing does not provide a clear showing that reasonable steps were taken to ensure timely payment of the maintenance fee. In fact, the record indicates that no steps were taken by Patentee(s) and/or Assignee to ensure timely payment of the maintenance fee.

The provisions of 37 C.F.R. §1.378(b) preclude acceptance of the delayed payment of the maintenance fee due to unavoidable delay. The regulations at 37 C.F.R. §1.378(b)(3) state 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.

In any future filing, this showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application, and documents regarding the alleged cause of

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[13] *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

[14] *See Futures Technology, Ltd. v. Quigg*, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988)(applicant's diligent inquiry into the status of the application is required to show unavoidable delay); *Douglas v. Manbeck*, 21 USPQ2d 1697, 1699-1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (even representation by counsel does not relieve the applicant from his obligation to exercise diligence before the USPTO; applicant's lack of diligence extending two and one half years overcame and superseded any omissions by his counsel).

[15] *Pratt, supra.*

the delay and copies of any documents referred to in Petitioner's statement as to the cause of the unavoidable delay are required. All the causes which contributed to the failure to timely pay the maintenance fee must be presented and supported with appropriate evidence.[16] (In general, a Petitioner should identify the party(ies) responsible for making the payment: A showing must be made (with supporting documents) outlining the efforts made to ensure timely payment of the maintenance fee--including scheduling and calendaring information, appointment of an individual with the authority and responsibility to pay the fee, and detailing of the causes for a failure in that process.)

Thus, as of this writing, the Office is unable to grant the relief sought.

In summary, the showing of record has been considered, but does not rise to the level of unavoidable delay. Rather, the showing of record is of possible a lack of diligence. (*See*: http://www.uspto.gov/web/offices/pac/mpep/documents/2500_2590.htm#sect2590)

CONCLUSION

For the reasons stated above, the delay in this case cannot be regarded as unavoidable within the meaning of 35 U.S.C. §41(c)(1) and 37 C.F.R. §1.378(b).

It is noted that the fees paid by Petitioner incorrectly included a $65.00 payment that was not applicable and, thus, inappropriate—the fee is being refunded by credit card. Should Petitioner later find that the fee was not refunded, Petitioner may submit a request for refund to the Office of Finance and include therewith a copy of this decision.

Accordingly, the petition under 37 C.F.R. §1.378(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[16] The showing must also enumerate 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. Statements from all persons who contributed to the delay are also required.

Patent No.6,975,748
Application No. 10/918,821

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[17]) 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:
PAUL S. MOSTERT, PHD
3298 ROXBERG DRIVE
LEXINGTON, KY 40503

[17] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GINGER W. SANDERS
841 CORPORATE DRIVE, SUITE 201
LEXINGTON KY 40503

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Patent No.6,975,748 :
Issue Date: 13 December, 2005 :
Application No. 10/918,821 : DECISION ON PETITION
Filed: 13 August, 2004 :
Attorney Docket No. 1183-001 Div. :

This is a decision on the petition filed on 4 August, 2011, and properly treated as a petition pursuant to 37 C.F.R. §1.378(b) requesting acceptance of payment of a maintenance fee for the above-referenced patent as having been delayed due to unavoidable delay, or, in the alternative, pursuant to 37 C.F.R. §1.378(c) requesting acceptance of payment of a maintenance fee for the above-referenced patent as having been delayed due to intentional delay.

NOTE: *The address on the petition is different than that of record.*

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice 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.

The petition pursuant to 37 C.F.R. §1.378(b) is **DISMISSED**, and the petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

A petition to accept the delayed payment of a maintenance fee pursuant to 35 USC §41(c) and 37 C.F.R. §1.378(b) must be accompanied by: an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely; payment of the appropriate maintenance fee, unless previously submitted; and payment of the surcharge set forth in 37 C.F.R. §1.20(i)(1).

Patent No.6,975,748
Application No. 10/918,821

A petition to accept the delayed payment of a maintenance fee pursuant to 37 C.F.R. §1.378(c) must be accompanied by: a proper statement that the delay was unintentional; payment of the appropriate maintenance fee, unless previously submitted; and payment of the surcharge set forth in 37 C.F.R. §1.20(i)(2).

BACKGROUND

Patent No. Patent No.6,975,748 (the '748 patent) issued on 13 December, 2005. The first maintenance fee could have been paid during the period from 13 December, 2008, through midnight 13 March, 2009, or, with a surcharge, during the period from 14 March, 2009, through midnight 13 December, 2009. Accordingly, the patent expired after midnight 13 December, 2009, for failure to pay timely the first maintenance fee.

STATUTE AND REGULATION

The grant of authority at 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...after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

The regulations 37 C.F.R. §1.378(b)(3) thus set forth 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. (Emphasis supplied.)

The Director may accept late payment of the maintenance fee under 35 U.S.C. §41(c) and 37 C.F.R. §1.378(b) if the delay is shown to the satisfaction of the Director to have been "unavoidable."[1]

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 the identical language, i.e., "unavoidable" delay.[2] Decisions reviving abandoned applications have adopted the reasonably

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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. 1988)).

prudent person standard in determining if the delay was unavoidable.[3] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[4] Finally, a petition to revive an application or reinstate a patent as abandoned or expired due to unavoidable delay cannot be granted where a Petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[5]

Petitioner's Contentions
as to Unavoidable Delay

Petitioner *pro se* Paul S. Mostert, PhD. (Petitioner) made no new showing pursuant to the regulations at 37 C.F.R. §1.378 as to unavoidable delay.

As noted above, Patent No. Patent No.6,975,748 (the '748 patent) issued on 13 December, 2005. The first maintenance fee could have been paid during the period from 13 December, 2008, through midnight 13 March, 2009, or, with a surcharge, during the period from 14 March, 2009, through midnight 13 December, 2009. Accordingly, the patent expired after midnight 13 December, 2009, for failure to pay timely the first maintenance fee. (The original petition (with fee) pursuant to 37 C.F.R. §1.378(b) was filed on 18 January, 2011; Petitioner could have filed a petition (with fee) pursuant to 37 C.F.R. §1.378(c) at that time but did not do so.) It is the patentee's/assignee's burden under the statutes and regulations[6] to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.[7] At bottom, the question is one of diligence.[8]

Because 35 U.S.C. § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 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.[9] 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 C.F.R. §1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the third/last maintenance fee for this patent.[10]

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[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 and observed by prudent and careful man in relation to their most important business"); *In re Mattullath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[4] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[5] *Haines v. Quigg*, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[6] The provisions of 35 U.S.C. §41(c)(1) do 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.[6] The provisions of 35 U.S.C. §133 do not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing.

[7] *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.*

[8] *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). *See also: Ray v. Lehman, supra.*

[9] *Ray*, 55 F.3d at 609, 34 USPQ2d at 1788.

[10] *Id.*

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. §1.378(b).[11] A showing of diligence in matters before the Office is essential to support a finding of unavoidable delay herein.[12] There is no "sliding scale" based upon the priority given to this maintaining this patent in force, or more diligently seeking reinstatement, *vis-a-vis* other matters by Petitioner. 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.

Petitioner did not submit the fee for renewed petition pursuant to 37 C.F.R. §1.378(b). Therefore, the Office was/is unable to consider the relief sought pursuant to 37 C.F.R. §1.378(b).

As noted above, the patent expired after midnight 13 December, 2009, for failure to pay timely the first maintenance fee. The original petition was filed on 18 January, 2011, and the instant petition was filed on 4 August, 2011. Because the petition was submitted within twenty-four (24) months after the six- (6-) month grace period provided in 37 C.F.R. §1.362(e), the petition was timely filed under the provisions of 37 C.F.R. §1.378(c).

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 of candor and duty to disclose.[13]

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.378(b) is **dismissed**, however, the petition considered in the alternative pursuant to 37 C.F.R. §1.378(c) is **granted**.

The maintenance fee is hereby accepted—the appropriate fees were submitted *via* check—and the above-identified patent is reinstated pursuant to **37 C.F.R. §1.378(c)** as of the mail date of this decision.

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[11] **Error! Main Document Only.**The three periods to be considered during the evaluation of a petition pursuant to 37 C.F.R. §1.378(b) are:

(1) The delay in reply that originally resulted in expiration;

(2) The delay in filing an initial petition pursuant to §1.378(b) to reinstate the patent; and

(3) The delay in filing a grantable petition pursuant to §1.378(b) to reinstate the patent.

[12] *See Futures Technology, Ltd. v. Quigg*, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988)(applicant's diligent inquiry into the status of the application is required to show unavoidable delay); *Douglas v. Manbeck*, 21 USPQ2d 1697, 1699-1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (even representation by counsel does not relieve the applicant from his obligation to exercise diligence before the USPTO; applicant's lack of diligence extending two and one half years overcame and superseded any omissions by his counsel).

[13] 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)(Petitioner obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Patent No.6,975,748
Application No. 10/918,821

The patent file is being returned to IFW Files Repository.

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[14]) 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
PAUL S. MOSTERT, PHD
3298 ROXBERG DRIVE
LEXINGTON, KY 40503

[14] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 KINROSS LAKES PARKWAY
SUITE 275
RICHFIELD OH 44286

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,013,711 :
Issued: March 21, 2006 :
Application No. 10/918,834 : DECISION ON PETITION
Filed: August 16, 2004 :
Attorney Docket No. 1469 :

This is a decision on the petition under 37 CFR 1.378(c), filed March 14, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 22, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUN 24 2011
OFFICE OF PETITIONS

Paper No.

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
Sriram et al. :
Application No. 10/918,839 : DECISION ON PETITION
Filed: August 13, 2004 : PURSUANT TO
Attorney Docket No.: TI-29047.1 : 37 C.F.R. § 1.137(B)
Title: MULTISTAGE PN CODE ACQUISITION CIRCUIT AND METHOD :

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 April 14, 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 July 15, 2010. A notice of abandonment was mailed on January 12, 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, Petitioner has submitted, *inter alia*, 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.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] 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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1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,846,738	:	DECISION ON REQUEST
Golovchenko et al.	:	FOR
Issue Date: December 7, 2010	:	RECONSIDERATION OF
Application No. 10/918,959	:	PATENT TERM ADJUSTMENT
Filed: August 16, 2004	:	and
Atty Docket No. 50334/008002	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 7, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred sixty-three (1263) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand two hundred sixty-three (1263)** days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Patentee is correct that the Office erred in calculating the B delay based on a request for continued examination under 132(b) of March 16, 2009, rather than the correct date of March 16, 2010. As such, the over three year period begins on August 17, 2007 and ends on March 15, 2010, the day before the first RCE was filed, which amounts to 942 days for "B" delay. See U.S.C.

154(b)(1)(B)(i). A period of 15 days is being excluded for appellate review (beginning on December 2, 2009, the date of filing of the notice of appeal, and ending on December 16, 2009, the date of mailing of a notice of allowance in response). Moreover, 117 of the 787 days accorded for Office delay in issuing a first Office action on December 12, 2007 overlaps with the 942 days of B delay. The B delay of 577 days accorded at issuance is being removed and a B delay of 809 (942 - (15 - 118)) days is being entered.

Patentee also points out that given that the RCE was filed on March 16, 2010, the applicant delay of 61 days should be removed and an applicant delay of 90 days should be entered. Patentee is correct. A non-final Office action was mailed on October 14, 2008. A period of reduction of 61 days was entered, pursuant to 37 CFR 1.704(b), for applicant taking until March 16, 2009 to file the RCE in response. This is incorrect as the RCE was not filed in response to this Office action. Rather, applicant's response was filed on April 14, 2009, three months and 90 days after the mailing of the Office action. As such, the period of reduction of 61 days is being removed and a period of adjustment of 90 days is being entered.

It is noted that the filing of the RCE on March 16, 2010 was not under circumstances that constitute a failure to engage in reasonable efforts to conclude processing or examination of the application.

In view thereof, the patent should have issued with a revised patent term adjustment of 1263 days (A delay = 787 days + B delay of 809 days - applicant delay of 333 days)[1].

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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[1] In order for the PTA of record to show correctly in the calculations, an additional entry of 118 days of Office delay was entered by the undersigned. This eliminated in the calculation the overlap being subtracted twice when the correct net B delay of 809 days was entered by the undersigned.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred sixty-three (1263) 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 : 7,846,738 B2

DATED : **December 7, 2010** **DRAFT**

INVENTOR(S) : Golovchenko 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 942 days

Delete the phrase "by 942 days" and insert – by 1263 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/919,540	08/16/2004	Jeff Glickman	21654F-001710US	6904

20350 7590 08/09/2011

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER	
JAVAID, JAMAL	

ART UNIT	PAPER NUMBER
2474	

NOTIFICATION DATE	DELIVERY MODE
08/09/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docket@kilpatricktownsend.com
ipefiling@kilpatricktownsend.com
jlhice@kilpatrick.foundationip.com

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: Jeff Glickman et al.
Application No. 10/919,540
Filed: August 16, 2004
For: **APPARATUS, SYSTEM AND METHOD OF TRANSMITTING DATA**

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed July 1, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed May 24, 2011.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action mailed May 24, 2011. In the petition, Applicant's counsel alleged that the finality of the office action was improper because Applicant did not introduce new subject matter with regards to the Amendment of claim 44, and did not have a full and fair chance to address the rejection to this claim additionally based on "Well Known Prior Art" and/or "Tinsberg".

A review of MPEP 706.07(a) clearly shows that a second action on the merits shall be made final, except for where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an Information Disclosure Statement. This section of the MPEP further indicates that the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal.

A review of the file record indicates the following:

> A Non Final Office Action was mailed on September 15, 2010 where the statement header indicated that claims 44-46 were rejected under 35 USC 103 as being unpatentable over Borella in view of Turnbull, Farwell, Puthiyedath, Williams and Daniel. The body of the rejection was based on a reference ("White") that was not cited in the statement header.

In an amendment filed February 15, 2011, dependent claim 44 was amended to include all of the limitations of the base and intervening claims.

A Final Office Action was mailed on May 24, 2011 rejecting claims 44-46 as being unpatentable under 35 USC 103 over Borella in view of Turnbull, Farwell, Puthiyedath, **Tsinberg**, Williams, Daniel, White and "**Well-Known Prior Art**". The Tsinberg and "Well-Known Prior Art" references were not previously cited in the Non-Final rejection of claim 44.

Since the examiner introduced a new ground of rejection (**Tsinberg** and "**Well-Known Prior Art**") that is neither necessitated by applicant's amendment nor based on information submitted in an Information Disclosure Statement, the Final Rejection is improper.

Accordingly, the petition is **GRANTED.**

The application will be forwarded to the examiner for consideration of applicant's arguments

Any inquiry concerning this decision should be directed to Christopher Grant at (571) 272-7294.

Timothy P. Callahan
Director Technology Center 2400
Networking, Multiplexing, Cable and Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/07/2011

TO SPE OF : ART UNIT 2879 Patel Nimeshkumar (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/919605 Patent No.: 7928654

CofC mailroom date: 11/9/2011

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: _____

_____

H. Rhodes

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE

2879
Art Unit

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GARY C. COHN, PLLC
215 E. 96TH ST., #191
NEW YORK NY 10128

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of :
Michael J. C. Smith :
Application No. 10/919,781 : DECISION ON PETITION
Filed: August 17, 2004 :
Attorney Docket No. CSA 008A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and an terminal disclaimer/fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed January 23, 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 3641 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MAILED
JUL 21 2011
OFFICE OF PETITIONS

HAHN LOESER / LINCOLN
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

In re Application of :
William T. MATTHEWS et al. :
Application No. 10/919,815 : ON PETITION
Filed: August 17, 2004 :
Attorney Docket No. 201990.01905 :

This is a decision on the petition under 37 CFR 1.59(b), filed June 29, 2011, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner asserts that an Appeal Brief was inadvertently filed under this application number on June 29, 2011, and requests removal.

As set forth in MPEP 724.05(III):

> 37 CFR 1.59(b) also covers the situation where an unintended heading has been placed on papers so that they are present in an incorrect application file. In such a situation, a petition should request that the papers be expunged rather than transferred to the correct application file. For Image File Wrapper (IFW) processing, see IFW Manual. The grant of such a petition will be governed by the factors enumerated in paragraph II of this section in regard to the unintentional submission of information.

Specifically, as set forth in MPEP 724.05(II):

> 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.

While, it is established that the Appeal Brief filed June 29, 2011 were inadvertently filed in an incorrect application, and is not deemed to be material information under 37 CFR 1.56, the petitioner has failed to satisfy or establish items (A)-(D) as set forth in MPEP 724.05 (II).

A petition fee of $200 will be charged to Deposit Account No. 15-0450, as authorized by Petitioner, and as set forth in 37 CFR 1.17(g).

Telephone inquiries concerning this decision should be directed to Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAHN LOESER / LINCOLN
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

MAILED
NOV 02 2011
OFFICE OF PETITIONS

In re Application of :
William T. MATTHEWS, et al. :
Application No. 10/919,815 : ON PETITION
Filed: August 17, 2004 :
Attorney Docket No. 201990.01905 :

This is in response to the renewed petition under 37 CFR 1.59(b), filed September 21, 2011, to expunge information submitted under MPEP 724.05(II).

The petition is **DISMISSED.**

Petitioner asserts that the Appeal Brief filed June 29, 2011 was inadvertently filed and requests that it 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 item (D) above.

For the reasons given above, the petition under 37 CFR 1.59 to expunge the Appeal Brief filed June 29, 2011, is dismissed.

Telephone inquiries regarding this decision should be directed to David Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 3745 for further processing

David Bucci
Petitions Examiner
Office of Petitions

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October 20, 2010

Richard M. Beck
Connolly Bove Lodge & Hutz LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, DE 19899-2207

Patent No.	: 7,767,733 B2
Ser. No.	: 10/919,960
Inventor(s)	: Andreas Kienzle, et al.
Issued	: August 3, 2010
Docket No.	: 11885-00056-US
Title	: **CLUTCH LININGS COMPRISING FIBER-REINFORCED CERAMIC MATERIALS**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,767,733 :
Issue Date: August 3, 2010 :
Application No. 10/919,960 : DECISION ON PETITION
Filed: August 17, 2004 :
Attorney Docket No. 11885-00056-US :

This is a decision on the Request To Correct The Assignee, filed December 16, 2010, which is being treated as Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO\SB\44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB\44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,767,733.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120315

DATE : January 19, 2012

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7683903

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:

/XIAO M. WU/
Supervisory Patent Examiner, Art Unit 2628

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GLENN P. RICKARDS
DOWREY RICKARDS PLLC
SUITE 106
19119 NORTH CREEK PARKWAY
BOTHELL WA 98011

MAILED

JAN 21 2011

OFFICE OF PETITIONS

In re Application of :
Lavigne, et al. :
Application No. 10/920,012 : DECISION
Filed: 17 August, 2004 :
Attorney Docket No. 12-27-101 :

This is a decision on the petition filed on 9 August, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 April, 2009, with reply due absent extension of time on or before 14 July, 2009.

On 18 September. 2009, Petitioner submitted a request and fee for extension of time and a reply in the form of an amendment.

On 28 October, 2009, the Office mailed a Notice of Non-Compliant Amendment, with the reply required on or before 28 November, 2009.

The application went abandoned by operation of law after midnight 28 November, 2009.

The Office mailed a Notice of Abandonment on 20 May, 2010.

On 9 August, 2010, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, a reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3689 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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)
6969170	2005-11-29	10920019	2004-08-17	103731.010100

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Barry J. Schindler/	Date (YYYY-MM-DD)	2010-10-05
Name	Barry J. Schindler	Registration Number	32938

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. 6969170
Issue Date: November 29,2005
Application No. 10920019
Filed: August 17,2004
Attorney Docket No. 103731.010100

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed October 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 October 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7340995
Issue Date: March 11,2008
Application No. 10920044
Filed: August 16,2004
Attorney Docket No. 001/002US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 13,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 13,2012 .
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)
7340995	2008-03-11	10920044	2004-08-16	001/002US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brent D. Sokol/	Date (YYYY-MM-DD)	2012-04-10
Name	Brent D. Sokol	Registration Number	38621

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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SEP 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,032,558 :
Issue Date: April 25, 2006 :
Application No. 10/920,164 : ON PETITION
Filed: August 18, 2004 :
Attorney Docket No. 249-356 :

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

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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 01/12/2011

Applicant	: Atsushi Okamoto	: DECISION ON REQUEST FOR
Patent Number	: 7598541	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/920,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **40** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7763809 B2
Application No.: 10/920270
Inventor(s) : Akio Rokugawa et al.
Issued : 07/27/2010
Title : MULTILAYERED SUBSTRATE FOR SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING SAME
Docket No. : 060914-0112-US01

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **The processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. A copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued to correct the remaining errors noted in the request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 11/04/2010

Address: Mark J. Sullivan
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

ts/md

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7763809 B2
Application No.: 10/920270
Inventor(s) : Akio Rokugawa et al.
Issued : 07/27/2010
Title : MULTILAYERED SUBSTRATE FOR SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING SAME
Docket No. : 060914-0112-US01

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:

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By hand: Customer Service Window
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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.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 11/17/2011

Address: Mark J. Sullivan
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

ts/md

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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP (WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Patent No. 7,763,809
Issue Date: July 27, 2010
Application No. 10/920,270
Filed: August 18, 2004
Attorney Docket No. 060914-0112-US01

DECISION ON PETITION
UNDER 37 CFR 3.81

This is a decision on the Request to Correct Assignee under 37 C.F.R. § 3.81(b) and Request for Certificate of Correction, filed November 22, 2011, requesting correction of the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct name of the assignee. A completed Certificate of Correction form (PTO/SB44) was previously submitted on October 29, 2010.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from "Shink Electric Industries Co., Inc." to:

--Shinko Electric Industries Co., Ltd--.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied deposit account authorization to charge required fees. As such, the requisite $100.00 fee (Fee Code 1811), as set forth under in 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been charged as authorized in the petition. A review of the PART B –FEES TRANSMITTAL, submitted with the Issue Fee on June 16, 2010, reveals that the assignee was erroneously identified as the assignee in Item 3 of the Transmittal. Office assignment records, however, are consistent with the requested correction. Accordingly, as 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 Certificate of Correction form filed with the present petition.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The matter is being referred to the Certificate of Corrections Branch for processing of a Certificate of Correction in US Patent 7,763,809.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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OFFICE OF PETITIONS

In re Patent No. 7,334,274 :
Issued: February 26, 2008 :
Application No. 10/920,304 : NOTICE
Filed: August 18, 2004 :
Attorney Docket No. WANG3263/EM/JS :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 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.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Patent of Johnson et al.	:	DECISION ON PETITION
Patent No. 7,399,766	:	UNDER 37 C.F.R. § 1.183
Issue Date: July 15, 2008	:	AND ON REQUEST FOR
Application No. 10/920,391	:	RECONSIDERATION OF
Filing Date: August 18, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 256753US96	:	

This is a decision on the petition under 37 C.F.R. § 1.183 and the petition under 37 C.F.R. § 1.705(d) filed January 20, 2010.

Pursuant to 37 C.F.R. § 1.705(d), a request under 37 C.F.R. § 1.705(d) be filed within two months of the date a patent issues. The instant petition under 37 C.F.R. § 1.183 requests the United States Patent and Trademark Office ("USPTO") suspend or waive the two-month requirement.

The petition under 37 C.F.R. § 1.183 is **dismissed**.

The petition under 37 C.F.R. § 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 C.F.R. § 1.183 or to the decision on the request under 37 C.F.R. § 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 C.F.R. § 1.136 are NOT permitted. *See* 37 C.F.R. § 1.181(f).

Background

The application matured into U.S. Patent No. 7,399,766, on July 15, 2008, with a revised patent term adjustment of 263 days.

A request for reconsideration of the revised patent term adjustment was not filed within two months of the date the patent issued.

On September 30, 2008, the U.S. District Court for the District of Columbia issued a memorandum opinion in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d (BNA) 1538 (D.D.C. 2008). The opinion disagreed with the process used by the USPTO at the time to

determine the number of days of overlap between delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

On January 7, 2010, the Court of Appeals for the Federal Circuit issued a decision in *Wyeth v. Kappos*, 591 F.3d 1364, 93 U.S.P.Q. 2d (BNA) 1257 (Fed. Cir. 2010). The decision affirmed the district court's judgment.

If a party disagrees with the Office's calculation of a patent term adjustment the party may file "a civil action against the Director ... in the United States District Court for the District Columbia within 180 days after the grant of the patent." 35 U.S.C. § 154(b)(4). Patentees could have filed a civil action as late as Monday, January 12, 2010, almost *15 weeks* after the district court *Wyeth* opinion and five days after circuit court *Wyeth* decision. A civil action was not filed on or before January 12, 2010, and the record fails to indicate a civil action has been filed.

The Petition Under 37 C.F.R. § 1.183

37 C.F.R. § 1.705(d) states, with emphasis added,

> If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within *two months* of the date the patent issued.

Patentees recognize the petition under 37 C.F.R. § 1.705(d) was not filed within the required two-month time limit. However, Patentees request waiver of the two-month time limit.

Patentees' argument for waiver of the time limit is based primarily on the issuance of the *Wyeth* opinion by the District Court for the District of Columbia and the issuance of the *Wyeth* decision by the Court of Appeals for the Federal Circuit.

37 C.F.R. § 1.183 states,

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply With the Federal Circuit Court Decision in Wyeth v. Kappos Regarding the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (February 1, 2010) ("Notice"). The Notice indicated the USPTO would permit patent owners to request recalculation of a patent's patent term adjustment up to 180 days after

the grant of the patent in view of the Federal Circuit Court decision in *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010).[1]

When the Office issued the February 1, 2010 Notice, the Office determined the Office would not accept **any** requests for PTA recalculation **initially filed** more than 180 days after the grant of the patent in view of the statutory judicial-review provisions of 35 U.S.C. § 154(b)(4), which require any civil action challenging the USPTO's PTA determination be brought within 180 days of the issuance of the patent. The USPTO believes the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in light of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedures Act, indicates a congressional intent that PTA issues be resolved shortly after the issuance of a patent. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period to **seek initial** USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. **Thus the USPTO believes that the 180-day period set forth in 35 U.S.C. § 154(b)(4) represents the outer limit for a party to initially file a request for PTA recalculation.**

The instant request under 37 C.F.R. § 1.705(d) was not filed within 180 days of the date the patent issued. Instead, the instant petitions were filed January 10, 2010, 554 days after the date the patent issued. Therefore, in view of the prior discussion, the petition under 37 C.F.R. § 1.183 is dismissed and the two-month time period set forth in 37 C.F.R. § 1.705(d) will not be waived.

Receipt of the $400 fee for the petition under 37 C.F.R. § 1.183 is acknowledged.

The Petition Under 37 C.F.R. § 1.705(d)

37 C.F.R. § 1.705(d) states, "[A]ny request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued." The patent issued July 15, 2008. The request under 37 C.F.R. § 1.705(d) was not filed until January 20, 2010, 492 days past the two-month limit to file the request. Therefore, the request is dismissed as untimely.

Receipt of the $200 fee for the petition under 37 C.F.R. § 1.705(d) is acknowledged.

Telephone inquiries specific to this matter should be directed to Steven Brantley, Senior Petitions Attorney, at (571) 272-3203.

Anthony Knight
Director
Office of Petitions

[1] The Notice stated the Office was *sua sponte* waiving the two-month limit to file a request under 37 C.F.R. § 1.705(d) if request is filed within 180 days of the date the patent issued, the patent issued prior to March 2, 2010, and the sole basis for requesting reconsideration of the patent term adjustment is the Office's pre-*Wyeth* interpretation of 35 U.S.C. § 154(b)(2)(A).

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DEC 13 2011

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Vijay Devarapalli et al.	:	
Application No. 10/920,444	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO WITHDRAW
Attorney Docket No. 39700-630001US/NC40283US	:	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 16, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Petro F. Suarez on behalf of all attorneys/agents associated with customer number 64046. All attorneys/agents associated with customer number 64046have 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: Nokia Corporation
Keilalahdentie 4
Espoo, Fin-02150
Finland

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/920,444	08/18/2004	Vijay Devarapalli	39700-630001US/ NC40283US

CONFIRMATION NO. 6668

64046
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

POWER OF ATTORNEY NOTICE

OC000000051292142

Date Mailed: 12/05/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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222 EAST 41ST ST
NEW YORK NY 10017

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SEP 27 2010

OFFICE OF PETITIONS

In re Application :
Moore :
Application No. 10/920,491 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: August 17, 2004 :
Dkt. No.: 12190-019-999 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 10, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 857 days, not 444 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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William J. Davis, Esq.
INTERNATIONAL SPECIALTY PRODUCTS
Legal Dept., Bldg. 8
1361 Alps Road
Wayne NJ 07470

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Mustafa Rehmanji et al.	:	
Application No. 10/920,535	:	DECISION ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. FDN-2670/	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of February 1, 2011 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 2, 2011. *See* MPEP 1214.06. A Notice of Abandonment was mailed on May 31, 2011

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Prosecution), with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1781 for appropriate action by the Examiner in the normal course of business on the reply received June 8, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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J. MARK HOLLAND AND ASSOCIATES
3 SAN JOAQUIN PLAZA
SUITE 210
NEWPORT BEACH, CA 92660

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
Charles Larsen :
Application No. 10/920,650 : DECISION ON PETITION
Filed: August 18, 2004 :
Attorney Docket No. LARSE-P3116 :

This is a decision on the petition, filed October 19, 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 **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of March 2, 2010, which set a three (3) month shortened statutory period for reply. Three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before September 2, 2010.

Office record show a timely reply was received under 37 CFR 1.8 on September 2, 2010, which includes the Request for Continued Examination (RCE) and the Amendment.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of March 2, 2010 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3679 for appropriate action in the normal course of business on the reply received on September 2, 2010.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,904,102 :
Issue Date: March 8, 2011 :
Application No. 10/920,665 : DECISION ON PETITION
Filed: August 18, 2004 :
Attorney Docket No. 18106 :

This is a decision on the Petition Under 37 C.F.R. §3.81(b) And Request For Certificate Of Correction Under 37 C.F.R. §1.323, filed May 11, 2011, to identify the correct assignees' names. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignees' names on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignees' names identified thereon from:

"NEC Corporation, Tokyo, (JP)"

to:

--NEC Corporation, Tokyo (JP)
NTT DoCoMo, Inc., Tokyo (JP)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,904,102.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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In re Patent No. 7110323
Issue Date: September 19,2006
Application No. 10920753
Filed: August 18,2004
Attorney Docket No. 04240-P0001A

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed April 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 April 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)
7110323	2006-09-19	10920753	2004-08-18	2608-001 US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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	/brianlink/	Date (YYYY-MM-DD)	2011-04-27
Name	Brian Link, President Tetra Seis Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	015547	Frame Number	0412
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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/921,243	08/18/2004	Frank Venegas JR.	IDS-17002/14	8563

25006 7590 06/15/2011

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

EXAMINER	
AMIRI, NAHID	
ART UNIT	**PAPER NUMBER**
3679	
MAIL DATE	**DELIVERY MODE**
06/15/2011	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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 15 2011

John G. Posa
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.
P.O. Box 7021
Troy, MI 48007-7021

In re Application of	:	
Venegas, Jr. et al	:	
Application No. 10/921,243	:	DECISION ON PETITION
Filed: August 18, 2004	:	UNDER 37 CFR 1.181
For: POST COVER SLEEVE WITH UPPER VESSEL	:	

This is in response to applicants' petition filed under 37 CFR 1.181 on December 22, 2008 requesting acceptance of at least the second supplemental appeal brief filed September 12, 2008.

The petition is **GRANTED**.

A review of the record reveals the following:

1. An appeal brief was originally filed on December 4, 2006.
2. In response thereto, prosecution was reopened and a new grounds of rejection was advanced in a non-final Office action mailed March 21, 2007.
3. A response that included amendments to the claims was filed on June 21, 2007.
4. A final Office action was mailed October 9, 2007.
5. A Notice of Appeal and Pre-appeal Brief Review Request were filed on January 9, 2008.
6. A Notice of Panel Decision from Pre-Appeal review was mailed on February 27, 2008.
7. A second Appeal Brief was filed on April 8, 2008[1].
8. A Notification of Non-Compliant Appeal Brief was mailed May 12, 2008 indicating that the Appeal Brief was non-compliant because the Summary of Claimed Subject Matter failed to map each element to the specification by page and line number.
9. A Corrected Appeal Brief was filed on June 12, 2008[2].

[1] The petition refers to the filing date of this appeal brief as being March 27, 2008. However, the only communications for that date in the file are an Electronic Patent Application Fee Transmittal indicating payment for an appeal brief and an Electronic Acknowledgement Receipt which appears to also indicate an appeal brief having been filed. No appeal brief dated for March 27, 2008 is found in the file and the copy that is present is dated April 8, 2008 with the pages thereof clearly indicating fax transmission to the Office on April 8, 2008. There is no explanation accompanying the appeal brief submission on April 8, 2008.

[2] The petition incorrectly refers to this appeal brief as having been filed on March 27, 2008.

10. A Notice of Non-Response was mailed July 31, 2008[3]. This communication points out that applicants failed to correct the previously noted problem and that Applicants' period for response continued to run from the mailing date of the Non-Compliant Notice.

11. A second corrected brief entitled Second Supplemental Appeal Brief was filed on September 12, 2008.

12. A second Notice of Non-Response was mailed November 13, 2008. This communication points out that the Appeal Brief is defective for the same problem previously noted and that Applicants' period for response continues to run.

Applicants assert that the Second Supplemental Appeal Brief filed September 12, 2008 meets all requirements under 37 CFR 41.37 and should be accepted.

37 CFR 41.37(c)(1)(v) states that the Summary of Claimed Subject Matter is to include a concise explanation of the subject matter defined in each of the independent claims involved in the appeal "which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters." In terms of Legislative history, the answer to comment 53 found at 69 Fed. Reg. 49976 (August 12, 2004) makes clear that what is required is that there be reference to the specification by page and line number, and to the drawings, if any, by reference characters. Further, with regard to the "concise explanation", it is applicants that were responsible for drafting the claims and choosing the language and terms used to define the claimed invention. As the originators of the claim language, applicants should know what is intended by the various words and phrases used and where such is fully supported in the specification.

The Non-Responsive notice mailed on November 13, 2008 indicates that the Summary of Claimed Subject Matter continues to not properly map each element to the specification by page and line number and identifies "unitary molded plastic article" as an example thereof.

Applicants' petition states that the "unitary molded plastic article" was identified by the inclusion of reference numerals 102 and 202. The petition also refers to a citation of page 4, lines 10-19, appearing five lines after the mention of this plastic article as constituting the reference to the specification by page and line number required by 37 CFR 41.37(c)(1)(v). With respect to this citation, it is stated that lines 17-19 describe the material as being plastic and that it may be molded in any way with examples of rotational molding and blow molding being identified. Applicants further state that one of ordinary skill in the art would recognize that the identified molding techniques produce unitary articles.

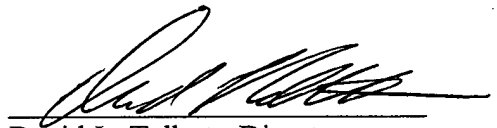
Independent review of the Appeal Brief filed on September 12, 2008 confirms the presence of this discussion. Further, even though the purported mapping of the "Unitary molded plastic article" did not appear until after other claimed elements were discussed and otherwise does not appear to be directly correlated to this claimed "article", it is believed that there is sufficient basis to enable an understanding of the claimed invention by the Board and permit an informed

[3] The petition apparently refers to this communication by the Examiner's date at the bottom of the action instead of the mailing date of that action.

review of the issues on appeal. Accordingly, the Summary of the Claimed Subject Matter provided in the Appeal Brief filed September 12, 2008 will be accepted.

In view of the fact that the Appeal Brief is considered to be acceptable, the Notification of Non-Responsive Amendment mailed November 13, 2008 is hereby vacated. The Appeal Brief of September 12, 2008 is being forwarded to the examiner for immediate consideration thereof and preparation of an Examiner's Answer in response thereto.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.



David L. Talbott, Director
Technology Center 3600
(571) 272-1934
Facsimile No.: (571) 273-8300

LM/DS: 5/31/11

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/921,243	08/18/2004	Frank Venegas JR.	IDS-17002/14	8563

25006 7590 06/15/2011

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

EXAMINER	
AMIRI, NAHID	

ART UNIT	PAPER NUMBER
3679	

MAIL DATE	DELIVERY MODE
06/15/2011	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 FRANK VENEGAS, JR.
and ROBERT J. STARR

Application 10/921,243
Technology Center 3600

DECISION ON PETITION

This is a decision on the "Petition to the Director Under 37 C.F.R. § 1.181" (Petition) filed December 22, 2008. In the Petition, Appellants request acceptance of the Appeal Brief filed September 12, 2008 as compliant with the requirements under 37 C.F.R. § 41.37. Petition 1. *See* 75 Fed. Reg. 15,689, 15,690 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On April 8, 2008, Appellants filed an Appeal Brief.

2. On May 12, 2008, the Examiner entered a first Notification of Non-Compliant Appeal Brief (First Notification). This notification indicated that the Summary of Claimed Subject Matter was not in compliance with 37 C.F.R. 41.37(c)(1)(v). First Notification 2. Specifically, it stated that "[t]he Summary of Claimed Subject Matter fails to map each element to the specification by page and line number. Note that the inclusion of a reference

to the specification at the end of the entire discussion of the claimed subject matter does not comply with this requirement." *Id.* The notification granted Appellants a period of one month within which to file a corrected brief and stated that extensions of time may be granted under 37 C.F.R. § 1.136. *Id.*

3. On June 12, 2008, Appellant filed a corrected Appeal Brief.

4. On July 31, 2008, the Examiner entered a second Notification of Non-Compliant Appeal Brief (Second Notification) holding that the corrected Appeal Brief failed "to comply with provision 37 CFR 41.37(c)(1)(v). In particular, the Summary of Claimed Subject Matter fails to map each element to the specification by page and line number as indicated in previous defective Appeal Brief mailed out on May 12, 2008." Second Notification 2. This notification stated that "[t]he period for response Continues to run from the mailing date of the Notice of Defective Appeal Brief, which is May 12, 2008. Since the period for response set in that prior Office action ahs [sic] expired, the application will become abandoned unless applicants correct the deficiency and obtain an appropriate extension of time under 37 CFR 1.136(a)." *Id.*

5. On September 12, 2008, Appellants concurrently filed a second corrected Appeal Brief and a Petition for a three-month extension of time under 37 C.F.R. § 1.136(a). In view of the Petition for a three-month extension of time, the second corrected Appeal Brief was filed timely.

6. On November 13, 2008, the Examiner entered a third Notification of Non-Compliant Appeal Brief (Third Notification) holding the second corrected Appeal Brief "filed on September 12, 2008 [as] not fully responsive to the prior Office Action because the Summary of Claimed Subject Matter still fails to map each element to the specification by page

and line number as indicated in previous defective Appeal Brief mailed out on July 31, 2008." Third Notification 2. This notification further stated that "[s]ince the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a)." *Id.*

RELEVANT AUTHORITY

37 C.F.R. § 1.181(a) provides that:

a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

37 C.F.R. § 41.3 provides that:

(b) *Scope*. This section covers petitions on matters pending before the Board (§§ 41.35, 41.64, 41.103, and 41.205); otherwise, see §§ 1.181 to 1.183 of this title.

DISCUSSION

The Petition to the Director Under 37 C.F.R. § 1.181 (Petition) was filed within 2 months of the Examiner's Notification of Non-Compliant Appeal Brief of November 13, 2008 and is timely in accordance with 37 C.F.R. § 1.181(f). No fee is required.

The six-month statutory period to file a complete response ended November 12, 2008. Therefore, the application is abandoned by operation of law. And because no additional extensions of time were requested after the initial three-month extension request (Finding 5), the application actually became abandoned on September 15, 2008. However, on the basis that the Appeal Brief of September 12, 2008 is a complete response to the Examiner's Notification of Non-Compliant Appeal Brief of July 31, 2008, the Petition will be treated as a petition to the Chief Administrative Patent Judge to withdraw the abandonment under 37 C.F.R. §§ 1.181(a)(3) or 41.3 and will be granted with the acceptance of the Appeal Brief.

On September 12, 2008, Appellants filed a timely Appeal Brief in response to the Examiner's Notification of Non-Compliant Appeal Brief of July 31, 2008. Finding 5. The Examiner held this Appeal Brief not fully responsive to the Notification. Finding 6. Appellants argue that the Appeal Brief of September 12, 2008 "meets all of the requirements under 37 C.F.R. §41.37, and should therefore be entered and docketed for appeal." Petition 1. In other words, Appellants believe the Appeal Brief noted above is a complete response to the Notification.

"The Chief Judge [has] the sole responsibility for determining whether corrected briefs comply with 37 CFR 41.37, and will address any inquiries and petitions regarding notices of noncompliant briefs." 75 Fed. Reg. at 15,690 (Mar. 30, 2010).

A review of the Appeal Brief filed on September 12, 2008 indicates that the brief complies with 37 C.F.R. § 41.37. Therefore, as argued by Appellants, it is a complete response to the Examiner's Notification of Non-Compliant Appeal Brief of July 31, 2008.

Because the Appeal Brief of September 12, 2008 was a timely and complete response, for reasons given above, the petition to withdraw the abandonment is **granted**. In view of the withdrawal of abandonment, the request to accept the Appeal Brief filed September 12, 2008 is also **granted** and will be entered into the.

DECISION

In view of the foregoing, the Petition to the Director Under 37 C.F.R. § 1.181, treated as a petition to withdraw the abandonment, is GRANTED. The request to accept the Appeal Brief filed September 12, 2008 is GRANTED.

The Appeal Brief filed September 12, 2008 will be entered into the record. The application will be returned to the Examiner for expedited preparation of an Examiner's Answer or other action as appropriate.

MERRELL C. CASHION, JR.
Case Management Administrator

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,229,497 :
Issued: June 12, 2007 :
Application No. 10/921,306 : ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. 14952.0328/MIT 10273 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 10, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Daniel O'Brien
Massachusetts Institute of Technology
Technology Licensing Office
Five Cambridge Center, Kendall Square
Cambridge, Massachusetts 02142-1493

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 8, 2009

TO SPE OF : ART UNIT 2882

SUBJECT : Request for Certificate of Correction for Appl. No. 10/921348 patent No.:7701550

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: The certificate for correction has been approved.

/Hung Nguyen/ 2882

Primary ~~SPE~~ Examiner **Art Unit**

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JOHN R. ROSS
TREX ENTERPRISES CORP.
10455 PACIFIC CENTER CT.
SAN DIEGO CA 92121

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Hsieh et al.	:	
Application No. 10/921,387	:	DECISION ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. 550	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 16, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 17, 2008. A Notice of Abandonment was mailed November 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $810.00 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 2814 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

OSI PHARMACEUTICALS, INC.
420 Saw Mill River Road
Ardsley NY 10502

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,521,448	:	DECISION ON REQUEST
Bolger et al.	:	FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Application No. 10/921,414	:	PATENT TERM ADJUSTMENT
Filed: August 16, 2004	:	and
Atty Docket No. OS-10003	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred fifty-nine (959) days. This petition was recently forwarded to the undersigned for consideration.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred fifty-nine (959) 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.

It is noted that an amendment of record was filed on April 2, 2008, not April 1, 2008. Given the filing of the supplemental paper on April 7, 2008, there is no effect on the ultimate calculation of patent term adjustment in erring and using the date of April 1, 2008 for the filing of the amendment.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will

issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred fifty-nine (959)** 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 : 7,521,448 B2

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Bolger 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 432 days

Delete the phrase "by 432 days" and insert – by 959 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF JIM BOICE
3839 BEE CAVE ROAD, SUITE 201
WEST LAKE HILLS TX 78746

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of :
Sachedina, et al. :
Application No. 10/921,469 : DECISION ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. CA920030068US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioners' failure to take appropriate action in a timely manner after the decision of August 25, 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 October 26, 2010. See MPEP 1214.06. A Notice of Abandonment was mailed November 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center AU 2176 for appropriate action by the Examiner in the normal course of business on the reply received.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MAILED

SEP 20 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Patent No. 7,585,626	:	DECISION ON REQUEST
Hantash	:	FOR
Issue Date: September 8, 2009	:	RECONSIDERATION OF
Application No. 10/921,482	:	PATENT TERM ADJUSTMENT
Filed: August 19, 2004	:	and
Atty Docket No. 034827-3401	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 14, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred and sixty (260) 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 seventy-three (73) days is **GRANTED to the extent indicated herein.**

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

This patent issued on September 8, 2009, with a patent term adjustment of 85 days. On February 1, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 21, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 161 days.

[1] Petition, page 2.

The Office notes that the decision of April 21, 2010 was issued in error as it accorded Patentee 89 more days of patent term adjustment than was warranted. The present decision supersedes the decision mailed on April 21, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is **73 days**.

With this submission, Patentee takes issue with three-periods of delay: the failure to accord an 88-day reduction associated with the submission of a response to a non-final Office action on October 1, 2008; the 41-day reduction associated with the submission of a Supplemental Application Data Sheet (ADS) on July 30, 2009, and; the B-delay.

First, Patentee is correct that the Office should have accorded an 88-reduction associated with the submission of a response to a non-final Office action on October 1, 2008. A non-final office action was mailed on March 30, 2009, and a response was received three months and 88 days later. As such, an 88-day reduction is warranted, pursuant to 37 C.F.R. § 1.704(b).

Second, Patentee has asserted that the aforementioned 88-day reduction should be entered *in place of* the 41-day reduction. However, the 41-day reduction is warranted *in addition to* the 88-day reduction. A notice of allowance was mailed on May 14, 2009, and a Supplemental Application Data Sheet was received on July 30, 2009. The patent issued 40 days later on September 8, 2009. As such, a 41-day reduction is warranted, pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the submission was filed is included in the period of applicant delay.

Third, the Office agrees with Patentee that the period of B-delay totals 318 days. However, a notice of appeal was filed on February 8, 2008, and a Request for Continued Examination (RCE) was filed on July 3, 2008. The 146 days of the over three-year period consumed by appellate review, beginning on February 8, 2008 and ending on July 2, 2008 (the day before the RCE was filed) 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 73 (223 days of examination delay plus 318 "B-delay" minus the aforementioned excluded 146 days minus 322 days of Applicant delay) days, not 260 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required. The Office thanks Patentee for his good faith and candor in bringing this to the attention of the Office.

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.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seventy-three (73) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,585,626 B1

DATED : **September 8, 2009** **DRAFT**

INVENTOR(S) : Hantash 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 85 days

Delete the phrase "by 85 days" and insert – by 73 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/30/2011

TO SPE OF : ART UNIT 2456

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/921663 Patent No.: 7792993B1

CofC mailroom date: 3/24/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Approved

/Rupal Dharia/
Supervisory Patent Examiner
SPE

2456
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Patent of :
Patrick Michael Curran :
Patent No.: 7,175,783 :
Issue Date: 02/13/2007 :
Application No. 10/921673 :
Filing or 371(c) Date: 08/18/2004 :
Title of Invention: :
CARBON ELECTRODE FOR USE IN :
AQUEOUS ELECTROCHEMICAL DEVICES :
AND METHOD OF PREPARATION :

ON PETITION

This is a decision on the petition under 37 CFR § 1.378(b), filed September 27, 2011, to reinstate the above-identified patent.

The petitions are **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The patent issued February 13, 2007. Patentee could have paid the three and one half (3½) year maintenance fee between February 13, 2010, and August 13, 2010, without a surcharge, or within the six (6) month grace period between August 14, 2010 and February 13, 2011. Patentee failed to do so; accordingly, the patent became expired on February 14, 2011.

The present petition

Patentee files the present petition and provides that his wife and he moved twice since the patent issued, and about three (3) years since petitioner lived at his previous address, and any attempt by his previous attorney would likely have been returned as undeliverable. Therefore, petitioner provides, he had no idea that the due date for any fees had been passed or that the fee had not been paid by his attorney. Petitioner provides further that patent law firms typically pay these

type fees and had paid the issue fee for the present patent, and petitioner had no reason to believe that this fee would also not be paid as the other had been. Petitioner states that on August 10, 2010 he looked up online and saw that the present patent had expired, and immediately emailed his new patent attorney and asked for guidance. Petitioner then immediately gathered the fees and filed the present petition,

Applicable Law, Rules and MPEP

Petition to reinstate under 37 CFR 1.378(b)

37 CFR 1.378(b) provides that a patent may be reinstated at any time following expiration of the patent for failure to timely pay a maintenance fee. A petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

> (A) the required maintenance fee set forth in 37 CFR 1.20(e)-(g);
> (B) the surcharge set forth in 37 CFR 1.20(i)(1); and
> (C) 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 applicable law requires a showing that the delay in paying the maintenance fee was unavoidable despite reasonable care being taken to ensure that the maintenance fee would be timely paid. The required 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. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. (Emphasis supplied).

As language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. *See 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), *aff 'd sub nom. Rydeen v. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), *cert. denied*, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard.

Because 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent.

Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. *See Patent No. 4,409,763*, supra. *See also* Final Rule entitled "*Final Rules for Patent Maintenance Fees*," published in the *Federal Register* at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the *Official Gazette* at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable.

Moreover, the 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. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). 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). 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).

Opinion

Patentee files the present petition and provides that his wife and he moved twice since the patent issued, and about three (3) years since petitioner lived at his previous address, and any attempt by his previous attorney would likely have been returned as undeliverable. Therefore, petitioner provides, he had no idea that the due date for any fees had been passed or that the fee had not been paid by his attorney, however, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminders does not constitute unavoidable delay. Moreover, the law requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Here, Patentee was unaware of the need to pay the maintenance fee and has not demonstrated that any steps were taken to ensure timely payment of the maintenance fee.

Petitioner provides further that patent law firms typically pay these type fees and had paid the issue fee for the present patent, and petitioner had no reason to believe that this fee would also not be paid as the other had been. However, as stated above, it is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.

Further to this, the 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. As noted above, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of the applicable law or rules of practice.

Conclusion

Petitioner's arguments have been considered; however, Petitioner has failed to demonstrate that the failure to pay the maintenance fee was unavoidable. The petition is dismissed.

Petitioner's current options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision. The petition for reconsideration should be entitled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of $400 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may file a petition stating that the delay was unintentional.

Petition to reinstate based upon an unintentionally delayed payment of the maintenance fee under 37 CFR 1.378(c)

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a

showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.378(c) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to 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 to reinstate the patent under 37 CFR 1.378(c).

37 CFR 1.378(c) states that "any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include:
(1) The required maintenance fee set forth in § 1.20 (e) through (g);
(2) The surcharge set forth in § 1.20(i)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

III. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington, DC, 20231. A copy of this decision should accompany petitioner's request.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

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.

By mail:	Mail Stop PETITIONS Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: PATRICK MICHAEL CURRAN
1 SAINT MAXIMA
LAGUNA NIGUEL, CA 92677

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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Eugene Richardson Keif, Jr.	:	
Application No. 10/921,683	:	NOTICE
Filed: 10/921,683	:	
Attorney Docket No. 12361.364	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT L. MCDOWELL
1170 JACKSON HEIGHTS DRIVE
WEBSTER, NY 14580

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of

Eugene A. Larson, et al.
Application No. 10/921,715
Filed: August 19, 2004
Attorney Docket No. CK&L-01-US

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 10, 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 from applicant's representative that he is in possession of proof of applicant Eugene A. Larson's age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

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 3739 for action on the merits commensurate with this decision.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No : 7,332,282 B2
Ser. No. : 10921742
Inventor(s) : Fink, et. al.
Issued : February 19, 2008

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
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

Casimir Jones SC
2275 Deming Way, Suite 310
Middleton, WI 53562

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

R. MICHAEL WEST
LAW OFFICES OF R. MICHAEL WEST
1922 21ST STREET
SACRAMENTO, CA 95811

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
James POSTMA, et al :
Application No. 10/922,065 : DECISION ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. 10757-CIP :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the non final Office action mailed, April 3, 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 July 4, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b). In this regard, the Office maintains that the Statement Establishing Unintentional Delay dated February 12, 2010, contains a statement that raises a question as to whether the entire delay was unintentional.

In the Supplemental Statement Establishing Unintentional Delay filed July 12, 2010, petitioner states "we received no advice or counsel from our Patent Attorney, Mr. Meeker about his view of the Patent References and the Office Action. That is why we were so discouraged that we decided to let the Application go abandoned."

Petitioner's reliance upon Attorney Meeker (Meeker) for matters regarding prosecution of the above-identified application shifts the focus of the inquiry regarding the abandonment of the application from petitioner to Meeker. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D. Del. 1995).

The delay in prosecution resulting from Meeker's actions or inactions is chargeable to petitioner. The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the patent holder, and petitioner is bound by the consequences of those actions or inactions. See California Medical Products v. Technol. Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995); Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

Petitioner has failed to meet the burden of establishing to the satisfaction of the Director that the entire delay in prosecution of the application 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.

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/922,065	08/19/2004	James Postma	

CONFIRMATION NO. 2417

R. MICHAEL WEST
LAW OFFICES OF R. MICHAEL WEST
1922 21ST STREET
SACRAMENTO, CA 95811

POA ACCEPTANCE LETTER

OC000000044498436

Date Mailed: 11/15/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/922,065	08/19/2004	James Postma	

CONFIRMATION NO. 2417

POWER OF ATTORNEY NOTICE

Donald W. Meeker
Patent Agent
924 East Ocean Front #E
Newport Beach, CA 92661

OC000000044498257

Date Mailed: 11/15/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2010.

- 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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MAR 14 2011

OFFICE OF PETITIONS

R. MICHAEL WEST
LAW OFFICES OF R. MICHAEL WEST
1922 21ST STREET
SACRAMENTO, CA 95811

In re Application of	:	
James POSTMA, et al	:	SUPPLEMENTAL
Application No. 10/922,065	:	DECISION ON PETITION
Filed: August 19, 2004	:	
Attorney Docket No. 10757-CIP	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the non final Office action mailed, April 3, 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 July 4, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b). In this regard, the Office maintains that the Statement Establishing Unintentional Delay dated February 12, 2010, contains a statement that raises a question as to whether the entire delay was unintentional.

In the Supplemental Statement Establishing Unintentional Delay filed July 12, 2010, petitioner states "we received no advice or counsel from our Patent Attorney, Mr. Meeker about his view of the Patent References and the Office Action. That is why we were so discouraged that we decided to let the Application go abandoned."

Petitioner's reliance upon Attorney Meeker (Meeker) for matters regarding prosecution of the above-identified application shifts the focus of the inquiry regarding the abandonment of the application from petitioner to Meeker. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D. Del. 1995).

The delay in prosecution resulting from Meeker's actions or inactions is chargeable to petitioner. The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the patent holder, and petitioner is bound by the consequences of those actions or inactions. See California Medical Products v. Technol. Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995); Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

Petitioner has failed to meet the burden of establishing to the satisfaction of the Director that the entire delay in prosecution of the application was unintentional.

This is supplement to the decision previously mailed November 19, 2010, and is solely for the purpose of adding information in reference to the refund in response to a telephone inquiry from petitioner.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on February 12, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-2658.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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DALLAS TX 75252-5793

MAILED

AUG 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,321,283
Issue Date: January 22, 2008
Application No. 10/922,066
Filed: August 19, 2004
Attorney Docket No. CDW02-060

NOTICE

This is a notice regarding your request on July 21, 2011, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The above request is also being construed as a request to remove small entity status. If this is an incorrect interpretation, applicant must notify the Office in writing of such.

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**.

Applicant is advised that if any additional fees are required to note 37 CFR 1.28(c)(2)(ii).

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

UNITED STATES 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.

SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS TX 75252-5793

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Patent Number: 7,280,026 :
Issue Date: 10/09/2007 :
Application Number: 10/922,067 :
Filing or 371(c) Date: 08/19/2004 :
Attorney Docket Number: CDW04-066 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission, which is treated under 37 CFR 1.28, filed on April 11, 2011.

The Office no longer investigates or rejects original or reissue patents under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

Douglas Wood
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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Itzik YANKILEVICH :
Application No. 10/922,084 : DECISION GRANTING PETITION
Filed: August 20, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1875.6280001** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 17, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Michael R. Malek 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. Malek desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/1/11

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/922,232 Patent No. 7,803,918

CofC mailroom date 3/22/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Zachariah Lucas/ — **SPE**

1648 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/1/11

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/922,232 Patent No. 7,803,918

CofC mailroom date 3/22/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Zachariah Lucas/ — **SPE**

1648 — **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

FEB 13 2012

OFFICE OF PETITIONS

DUKE W YEE
YEE AND ASSOCIATES PC
PO BOX 802333
DALLAS TX 75380

In re Application of :
Chen, et al. : DECISION ON PETITION
Application No. 10/922,269 :
Filed: August 19, 2004 :
Attorney Docket No. :
AUS920040263US1

This is a decision on the petition filed January 11, 2012, pursuant to 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 file an Appeal Brief in response to the "Notice of Panel Decision from Pre-Appeal Brief Review", mailed February 24, 2011. This Notice set an extendable period for reply of one month in which the file an Appeal Brief. No Appeal Brief having been filed, the application became abandoned on March 25, 2011. A Notice of Abandonment was mailed on November 1, 2011.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an Appeal Brief.

Applicants previously submitted $540 for the Appeal Brief on June 15, 2009. The fee for an Appeal Brief is currently $620. As such, an additional $80 has been charged to Deposit Account No. 09-0457, as authorized.

The application is being forwarded to Group Art Unit 2177 for consideration of the Appeal Brief filed January 11, 2011.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MAILED

AUG 02 2011

OFFICE OF PETITIONS

GARY L. EASTMAN
Gary L. Eastman, APLC
401 W. "A" Street, Suite 1785
SAN DIEGO CA 92101

In re Application of :
Elizabeth Stillwagon : DECISION ON PETITION
Application No. 10/922,366 :
Filed: August 20, 2004 :
Title: SHOES WITH THE :
INTERCHANGEABLE AND :
INTER-ZIPPABLE TOPS :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed July 12, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned effective December 19, 2004 for failure to reply to the Notice to File Missing Parts of Application mailed October 18, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. A courtesy Notice of Abandonment was mailed on July 8, 2005.

Petitioner has satisfied the requirements of 37 CFR 1.137(b). The petition includes the required reply in the form of the late surcharge, missing filing fees, and an executed declaration for patent; the petition fee; and the required statement of unintentional delay. Further, the petition includes a statement of facts by the inventor in support of a conclusion that the entire delay was unintentional.

It appears that the attorney signing the statement of unintentional delay was appointed after the abandonment of the application. Thus, 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.

Further, the instant application has been abandoned for an extended period of time. The Office is relying on petitioner's duty of good faith and candor in accepting the assertion that the entire delay in filing the required reply was unintentional. See 37 CFR 10.18.

The application is being forwarded to the Office of Patent Application Processing for completion of pre-examination processing, including processing of the responses submitted on petition filed July 12, 2011.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,092,284	:	
Issue Date: August 15, 2006	:	
Application No. 10/922,434	:	ON PETITION
Filed: August 20, 2004	:	
Attorney Docket No. I433.123.101/13210	:	

This is a decision in response to a petition filed January 5, 2011, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 16, 2010, for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) is submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

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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LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

MAILED

DEC 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel R. BURNETT, et al	:	
Application No. 10/922,478	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO WITHDRAW
Attorney Docket No. TN 1005-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Allen Wood and the attorneys of record associated with Customer No. 40518, has been revoked by the assignee of the patent application on March 9, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

CC: NOVASHUNT, INC.
12869 CORTE DE ARGUELLO
SARATOGO CA 95070

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

MAILED
FEB 29 2012
OFFICE OF PETITIONS

In re Patent No.: 7,249,913
Issue Date: July 31, 2007
Application No.: 10/922,494
Filed: August 20, 2004
Patentee: Stephen L. Linville

ON PETITION

This is a decision in response to a petition, filed January 19, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired on July 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 is 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 petition is **GRANTED**.

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.

It is noted that the petition is signed by the inventor, Steve Linville; however, petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted.

Petitioner is advised that the mere filing of a power of attorney and/or a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, 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 petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence 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: STEVE LINVILLE
12710 RESEARCH BOULEVARD, SUITE 240
AUSTIN, TX 78759

UNITED STATES 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. 7192618
Issue Date: March 20,2007
Application No. 10922604
Filed: August 20,2004
Attorney Docket No. 88800900-0007-003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 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 November 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)
7192618	2007-03-20	10922604	2004-08-20	119985-00103

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joy Mulholland/	Date (YYYY-MM-DD)	2011-11-10
Name	Joy Mulholland	Registration Number	48710

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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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

MAILED

JUN 30 2011

OFFICE OF PETITIONS

In re Patent No. 7,661,102 :
Issue Date: February 9, 2010 :
Application No. 10/922,718 : NOTICE
Filed: August 20, 2004 :
Attorney Docket No. INSG0012 :

This is a notice regarding your request, May 3, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DAVID LOWRY
BROWN RUDNICK BERLACK ISRAELS LLP
ONE FINANCIAL CENTER
BOX IP
BOSTON MA 02111

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Patent No. 6,944,118	:	
Issued: September 13, 2005	:	
Application No. 10/922,754	:	DECISION ON PETITION
Filed: August 20, 2004	:	
Attorney Docket No. 23946/4	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 31, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 14, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Roy L. Salomons
63-95 Austin Street, Apt. 4J
Forest Hills, New York 11374

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 13 2010

OFFICE OF PETITIONS

KAPLAN GILMAN & PERGAMENT LLP
1480 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

In re Application of	:	
Azhar HUSSAIN, ET AL	:	
Application No. 10/922,822	:	DECISION ON PETITION
Filed: August 19, 2004	:	TO WITHDRAW
Attorney Docket No. 486-2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 30, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Jeffrey I. Kaplan on behalf of the attorneys of record associated with Customer No. 83336.

The attorneys of record associated with Customer No. 83336 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. AZHAR HUSSAIN,
REWARD MAPPING
NOBLE HOUSE, MOUNT HILL LANE
GERRARDS CROSS
BUCKS SL9 8SU
UNITED KINGDOM

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/922,822	08/19/2004	Azhar Hussain	486-2

CONFIRMATION NO. 2706

83336
Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge, NJ 07095

POWER OF ATTORNEY NOTICE

OC000000043034850

Date Mailed: 08/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/30/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

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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MAILED

MAR 10 2011

OFFICE OF PETITIONS

KREMBLAS & FOSTER
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG OH 43068

In re Application of :
Vince Guerra :
Application No. 10/922,859 : DECISION ON PETITION
Filed: August 23, 2004 :
Attorney Docket No. BATGF 100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 10, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 11, 2010. A Notice of Abandonment was mailed on January 6, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1783 for appropriate action by the Examiner in the normal course of business on the reply received January 6, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-20-10 Paper No.: _____

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/922889 Patent No.: 7475465

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Claim

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

_____

_____

_____

SPE /Stephen D. Meier/ ART UNIT 2853

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP
P.O. BOX 352
GRAND RAPIDS MI 49501

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of :
Metcalf et al. :
Application No. 10/923,072 : DECISION ON PETITION
Filed: August 20, 2004 :
Attorney Docket No. SSW :
P13US1

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 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 above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed June 1, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). An untimely reply to the Office action was submitted on December 6, 2006. Accordingly, this application became abandoned on September 2, 2006. A Notice of Abandonment was mailed on December 12, 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 (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within

the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost six years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 1, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Varnum, Riddering, Schmidt and Howlett was counsel at the time of abandonment, an explanation why this application became abandoned while it was under their control and what efforts attorneys at Varnum, Riddering, Schmidt and Howlett made to reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the

revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicants' failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR

1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is noted that a Notice of Abandonment was mailed on December 12, 2006 but a petition was not filed until over four years later.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
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)
7055991	2006-06-06	10923368	2004-08-20	10010

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jason Z. Lin/	Date (YYYY-MM-DD)	2010-10-03
Name	Jason Z. Lin	Registration Number	37492

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. 7055991
Issue Date: June 6,2006
Application No. 10923368
Filed: August 20,2004
Attorney Docket No. 1190889-991390

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 3,2010 ,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 3,2010 . 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

GLEN E. SCHUMANN ESQ. C/O MOSS & BAMETT
4800 WELLS FARGO CENTER 90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,890,477 :
Issue Date: February 15, 2011 :
Application No. 10/923,498 : ON PETITION
Filed: August 20, 2004 :
Attorney Docket No. 40796.11 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed January 4, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 5, 2010

TO SPE OF : ART UNIT 1626
SUBJECT : Request for Certificate of Correction for Appl. No/10/923538 pt.7378409

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 McKane/ SPE, Art Unit 1626

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

FEB 25 2011

OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

In re Patent No. 7,618,371 :
Issue Date: November 17, 2009 :
Application No. 10/923,660 : NOTICE
Filed: August 20, 2004 :
Attorney Docket No. HNMDNZ00900 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
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)
7260767	2007-08-21	10924038	2004-08-23	TRA-101

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David P. Gordon/	Date (YYYY-MM-DD)	2012-02-17
Name	David P. Gordon	Registration Number	29996

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. 7260767
Issue Date: August 21,2007
Application No. 10924038
Filed: August 23,2004
Attorney Docket No. TRA-101

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 17,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 17,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Neil C. Robertson, et al.	:	
Application No. 10/924,077	:	DECISION GRANTING PETITION
Filed: August 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60374.0068USI7/968581	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 23, 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 February 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2617 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

AUG 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Neil Robertson, et al.	:	
Application No. 10/924,077	:	DECISION GRANTING PETITION
Filed: August 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60374.0068USI7/968581	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 22, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2617 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.*

DATE 09/21/2010 APPLICATION NUMBER 10/924,295

DOC CODE COCX DOC DATE 08/23/2010

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/23/10 **Paper No.:** —

TO SPE OF : ART UNIT 2437

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/924,895 Patent No.: 7725926 B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The change is to correct a grammatical issue.

09-21-2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO IL 60680

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Application of :
Bartholomew Donovan :
Application No. 10/924,427 : DECISION ON PETITION
Filed: August 24, 2006 :
Attorney Docket No.: 12749US05 :
For: COMPUTER-IMPLEMENTED :
TELEPHONIC INTERNET DISPLAY AND :
WINDOWING SYSTEM :

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 for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on October 29, 2010. The Notice set an extendable one-month reply period of August 26, 2010. No timely extension of time pursuant to 37 CFR 1.136 was obtained. The application became abandoned on November 30, 2010. A Notice of Abandonment was mailed on June 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620.00, 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on June 17, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2453 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

APR 07 2011

OFFICE OF PETITIONS

In re Application of :
Jason D. Livingood :
Application No. 10/924,485 : ON APPLICATION FOR
Filed: August 24, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. :
007412.00131 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed on February 21, 2011. Applicants assert that the correct patent term adjustment is 1797 days rather than 1041 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicants assert entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Ammar, et al.	:	
Application No. 10/924,567	:	NOTICE
Filed: August 24, 2004	:	
Attorney Docket No. 25960-609C01US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Bib Data Sheet

CONFIRMATION NO. 5679

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/924,567	08/24/2004 RULE	333	2817	25960-609C01US

APPLICANTS

Danny F. Ammar, Windermere, FL;
Eugene Fischer, Clermont, FL;
Gavin Clark, Tavares, FL;
John Hubert, Clermont, FL;
Glenn Larson, Winter Garden, FL;

**** CONTINUING DATA ***************************

This application is a CON of 10/091,382 03/05/2002 PAT 6,788,171

**** FOREIGN APPLICATIONS *********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 10/23/2004

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	FL	7	19	2
35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged Examiner's Signature Initials				

ADDRESS
30623

TITLE
MILLIMETER WAVE (MMW) RADIO FREQUENCY TRANSCEIVER MODULE AND METHOD OF FORMING SAME

FILING FEE RECEIVED	FEES: Authority has been given in Paper	
685	No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

JUN 30 2011

OFFICE OF PETITIONS

In re Application of :
Isa Odidi, et al. :
Application No. 10/924,649 : DECISION ON PETITION
Filed: August 23, 2004 :
Attorney Docket No. 221904-1100 :

This is a decision on the petition, filed May 2, 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 **DISMISSED.**

This application was held abandoned for failure to reply to the Final Office action mailed April 1, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 5, 2010.

Petitioner asserts that the Final Office action dated April 1, 2009 was not received. Petitioner contends that the Final Office action was mailed to the previous mailing address associated with practitioner's customer number 24504 and that the mailing address associated with customer 24504 was updated to the current address on or about September 28, 2007.

A review of the written record indicates that no irregularity in the mailing of the Final Office action of April 1, 2009. In this regard, the Office has no record of the address associated with customer number 24504 being updated on or around September 28, 2007. Office records indicate the address associated with customer number 24504 was not updated until May 9, 2011 which was after the mailing of the Final Office action.

Accordingly, as the Final Office action was mailed properly to the correspondence address of record, the instant petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the documentary evidence necessary to substantiate that the "address associated with customer number 24504 was updated to the current address on or about

September 28, 2007," or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee (for a small entity) along with an acceptable reply to the final Office action of April 1, 2009.

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 Terri Johnson at (571) 272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
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
www.uspto.gov

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of :
Isa Odidi, et al. :
Application No. 10/924,649 : DECISION ON PETITION
Filed: August 23, 2004 :
Attorney Docket No. 221904-1100 :

This is a decision on the renewed petition, filed August 5, 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 final Office action mailed April 1, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 5, 2010.

Petitioner asserts that the Office action dated April 1, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of April 1, 2009. In this regard, the Office received a request to update the address to customer number 24504 on October 1, 2007, prior to the mailing of the Office action of April 1, 2009. Office records were not timely updated to reflect the requested change in correspondence address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed January 5, 2010 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1611 for re-mailing the Office action of April 1, 2009 and resetting the period for reply.

/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

In re Patent No. 7328703
Issue Date: February 12,2008
Application No. 10924783
Filed: August 25,2004
Attorney Docket No. 167-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 2,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7,328,703	2008-02-12	10/924,783	2004-08-25	

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Brian L. Tiep/	Date (YYYY-MM-DD)	2012-04-02
Name	Brian L. Tiep		

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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 08/04/2010

Applicant	: Masato Kurihara	: DECISION ON REQUEST FOR
Patent Number	: 7662424	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/924,858	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1575** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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John Paniaguas
Katten Muchin Rosenman
525 West Monroe Street
Chicago IL 60661

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of :
David R. Pacholok, et al. :
Patent No. 7,528,579 : NOTICE
Application No. 10/925,073 :
Filed: August 24, 2004 :
Attorney Docket No. 12188/4

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/17/10

TO SPE OF : ART UNIT 3663

SUBJECT : Request for Certificate of Correction for Appl. No.: 10925248 Patent No.: 7027213

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: _____

_____

_____

_____

_____

_____ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/925,416	08/24/2004	Michael Kownacki	03-1092	1078

63710 7590 09/13/2011

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

EXAMINER	
AKINTOLA, OLABODE	
ART UNIT	PAPER NUMBER
3691	

NOTIFICATION DATE	DELIVERY MODE
09/13/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocketing@cantor.com
dpostolski@cantor.com
lalto@cantor.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte MICHAEL KOWNACKI and CONSTANTINE SKONDRAS

Appeal 2010-010173
Application 10/925,416
Technology Center 3600

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 1.136(b) for Extension of Time to File Reply Brief," filed June 14, 2010 ("Petition"). The Petition requests "a two-month extension of time to file a Reply Brief." (Petition 1).

FINDINGS

1) On May 22, 2009, Appellants filed a Notice of Appeal and a Pre-Brief Conference Request.

2) On July 13, 2009, a Pre-Brief Appeal Conference Decision was mailed to Appellants.

3) On January 13, 2010, Appellants filed an Appeal Brief, with a 5 month Extension of Time.

4) On April 14, 2010, an Examiner's Answer was mailed to Appellants.

5) On June 14, 2010, Appellants filed the instant Petition and a Request for Oral Hearing.

6) A Board of Patent Appeals and Interferences Docketing Notice was mailed to Appellants on July 24, 2010. The Docketing Notice assigned Appeal Number 2010-010173 to this application.

7) On August 12, 2010, Appellants filed a Reply Brief and a second Request for Oral Hearing.

8) On August 26, 2010, Appellants filed an Information Disclosure Statement (IDS).

9) On May 25, 2011, Appellants filed a second IDS.

10) Requests for extensions of time to file a Reply Brief are covered by 37 C.F.R. § 41.43(c):

> Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications . . . .

11) 37 C.F.R. § 1.136(b) further states:

> When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for *sufficient cause and for a reasonable time specified.* Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute.

(Emphasis added).

ARGUMENTS

Appellants argue that Appellants' counsel is involved in litigation and cannot prepare a Reply Brief on time. (Petition 1).

DISCUSSION

We note that the Petition simply states that Appellants' counsel is involved in litigation, and that "attorneys that would normally be available, and to whom work could normally be shifted, are otherwise engaged." (Petition 1). The Petition merely sets forth a conclusionary statement that Appellants' counsel "are otherwise engaged." There is no evidence presented setting forth any deadlines regarding the litigation, how many attorneys are working on the matter or the amount of time actually involved. Rule 1.136(b) clearly states that "the period for reply will be extended only for sufficient cause." The conclusionary statement that counsel is involved in litigation is not sufficient.

DECISION

For the reasons set forth above, the Petition is DENIED.

James Donald Smith
Chief Administrative Patent Judge

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Application of :
Rosenberg, et al. :
Application No. 10/925,442 : DECISION ON APPLICATION
Filed: August 25, 2004 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **7113USO2** :

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(b)" filed August 1, 2011. Applicants submits that the patent term adjustment to be indicated on the patent is at least one thousand, three hundred and ninety-five (1,395) days, not six hundred and twenty-one (621) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on July 2, 2010.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN.**

Applicants' state that:

> [t]he USPTO has not considered the following as applicants' failure to engage in reasonable efforts to conclude processing or examination: the 8/23/2010, 9/14/2010, 12/1/2010, 1/3/2011, and 1/5/2011 Information Disclosure Statements filed after the 7/2/2010 RCE the 6/30/2011 Information Disclosure Statement filed after the 6/28/2011 RCE and the 6/7/2011 filing to request the USTPO to correct its examination mistakes of irregularities. Applicants believe that an IDS filed before the first Office action after an RCE should not be considered a failure to engage in reasonable efforts to processing or examination. This is because the USPTO places RCE on the examiner's Special New application docket, instead of the Regular Amended docket and 37 CFR 1.97(a)(4) suggests that such IDS filings are treated as if they were filed together with the RCE. Likewise, Applicants believe that a filing to request the USPTO to correct its examination irregularities should not be considered a failure to engage in reasonable efforts to conclude processing or examination.

Excerpt taken from "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(b)" filed August 1, 2011, pg. 2.

Applicants' argument has been considered but is not well taken. A review of the application file history reveals that the reduction to the patent term adjustment of 187 days is warranted pursuant to 37 CFR 1.704(c)(8). A review of the application history reveals that Information Disclosure Statements (IDS) were filed on August 23, 2010, September 14, 2010, December 1, 2010, January 3, 2011, and January 5, 2011, with the last IDS being filed 187 days after a response in the form of a Request

for Continued Examination was filed on July 2, 2010. 37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

37 CFR 1.704(d) provides that:

> (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.

It is noted that all of the aforementioned IDS filed during the relevant period, i.e., after the filing of the RCE on July 2, 2010, and before an Office action was mailed on May 25, 2011, are subject to a reduction of the patent term adjustment, however, because the periods of the reduction overlap only the total period considering the last filed IDS is entered. It is undisputed that the last Information Disclosure Statement filed January 5, 2011, during the relevant period, was filed 187 days

after the response was filed on July 2, 2010. The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. Further review of the Information Disclosure Statements filed August 23, 2010, September 14, 2010, December 1, 2010, January 3, 2011, and January 5, 2011, did not included the proper statement under § 1.704(d). **Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of 187 days is being entered beginning on the day after the date the initial reply was filed, July 3, 2010, and ending on the date the last supplemental reply or other such paper was filed, January 5, 2011.**

It is noted that an Information Disclosure Statement was filed on June 30, 2011, after a Request for Continued Examination was filed on June 28, 2011, in response to a Notice of Allowance and Issue Fee Due mailed May 25, 2011. The IDS filed June 30, 2011, is subject to a reduction to the patent term adjustment under 37 CFR (c)(10). 37 CFR 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

Accordingly, the period of adjustment of the term of the patent should be reduced by 23 days, beginning on the date the IDS was filed, June 30, 2011 and ending on the date the response to the IDS was mailed, July 22, 2011. Accordingly, a period of reduction of 23 days will be entered.

A review of the IDS filed June 7, 2011, reveals that no reduction to the patent term adjustment under 37 CFR 704(c)(10) is warranted. Further to this point, a review of the record reveals that the IDS filed June 7, 2011, is an effort by applicant to have the examiner initial the IDS 1449 for

Information Disclosure Statements filed prior to the mailing of the notice of allowance. Under the circumstances, the filing on July 7, 2011, of the 1449 should not be considered a failure to engage in reasonable efforts to conclude processing or examination of the application and should not result in reduction of the patent term adjustment under 37 CFR 1.704(c)(10). The Notice of Allowance did not reference some of the IDS previously filed. The June 7, 2011, filing was first opportunity by applicants to address the matter. Thus no reduction under 37 CFR 1.704(c)(10) is warranted for the June 7, 2011, filing.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is four hundred and eleven (411) days (1140 days of Office delay - 729 days of applicant delay.

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).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

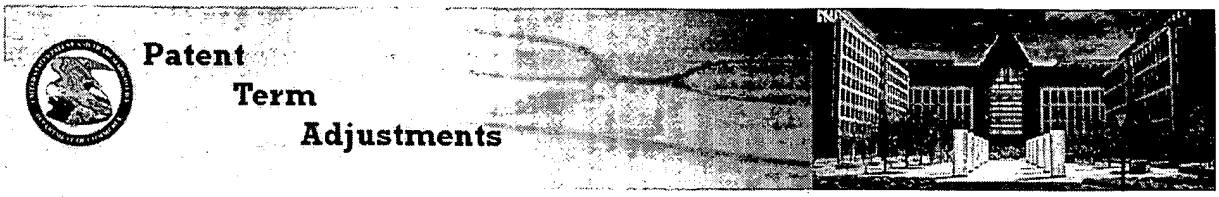
The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this specific matter should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10925442 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10925442

Application Filing Date	08/25/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1140
A Delays	1140	PTO Manual Adjustment	-210
B Delays	0	Applicant Delay (APPL)	519
C Delays	0	Total PTA (days)	411

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
156	08/24/2011		P028	Adjustment of PTA Calculation by PTO		210	0
146	07/22/2011		MN/=.	Mail Notice of Allowance			0
145	07/18/2011		OAR	Office Action Review			0
144	07/18/2011		OAR	Office Action Review			0
143	07/18/2011		IREV	Issue Revision Completed			0
142	07/18/2011		N/=.	Notice of Allowance Data Verification Completed			0
141	07/18/2011		DVER	Document Verification			0
140	07/17/2011		EX.R	Reasons for Allowance			0
139	07/17/2011		CNTA	Allowability Notice			0
130	07/06/2011		ABN9	Disposal for a RCE / CPA / R129			0
138	06/30/2011		IDSC	Information Disclosure Statement considered			0
133	06/30/2011		M844	Information Disclosure Statement (IDS) Filed			0
129	06/30/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
137	06/28/2011		IDSC	Information Disclosure Statement considered			0
132	06/28/2011		M844	Information Disclosure Statement (IDS) Filed			0
131	06/28/2011		RCEX	Request for Continued Examination (RCE)			0
128	06/28/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
127	06/28/2011		BRCE	Workflow - Request for RCE - Begin			0
136	06/07/2011		IDSC	Information Disclosure Statement considered			0
135	06/07/2011		IDSC	Information Disclosure Statement considered			0
134	06/07/2011		IDSC	Information Disclosure Statement considered			0
126	06/07/2011		LET.	Miscellaneous Incoming Letter			0
125	06/07/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
124	06/07/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
123	06/07/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
122	06/03/2011		R1021	Receipt into Pubs			0
121	05/27/2011		EIDC	Export to Initial Data Capture			0
120	05/25/2011		ELC_RVW	Electronic Review			0
119	05/25/2011		EML_NTF	Email Notification			0
118	05/25/2011	11/02/2010	MN/=.	Mail Notice of Allowance	204		84
117	05/20/2011		DVER	Document Verification			0
116	05/20/2011		IREV	Issue Revision Completed			0
115	05/20/2011		N/=.	Notice of Allowance Data Verification Completed			0
114	05/20/2011		DOCK	Case Docketed to Examiner in GAU			0
110	03/14/2011		CNTA	Allowability Notice			0
104	01/05/2011		EIDS.	Electronic Information Disclosure Statement			0
109	01/03/2011		IDSC	Information Disclosure Statement considered			0
103	01/03/2011		EIDS.	Electronic Information Disclosure Statement			0
100	01/03/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
99	12/03/2010		FWDX	Date Forwarded to Examiner			0
108	12/01/2010		IDSC	Information Disclosure Statement considered			0
98	12/01/2010		SA..	Supplemental Response			0
97	12/01/2010		RCAP	Reference capture on IDS			0
96	12/01/2010		EIDS.	Electronic Information Disclosure Statement			0
95	12/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
107	09/14/2010		IDSC	Information Disclosure Statement considered			0
94	09/14/2010		EIDS.	Electronic Information Disclosure Statement			0
93	09/14/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
106	08/23/2010		IDSC	Information Disclosure Statement considered			0
92	08/23/2010		RCAP	Reference capture on IDS			0
91	08/23/2010		M844	Information Disclosure Statement (IDS) Filed			0
90	08/23/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
89	07/13/2010		FWDX	Date Forwarded to Examiner			0
83	07/09/2010		ABN9	Disposal for a RCE / CPA / R129			0
105	07/02/2010		IDSC	Information Disclosure Statement considered			0

88	07/02/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
87	07/02/2010		EIDS.	Electronic Information Disclosure Statement			0
86	07/02/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
85	07/02/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
84	07/02/2010	04/12/2010	RCEX	Request for Continued Examination (RCE)		81	76
82	07/02/2010		XT/G	Request for Extension of Time - Granted			0
81	07/02/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
80	07/02/2010		BRCE	Workflow - Request for RCE - Begin			0
78	01/12/2010		ELC_RVW	Electronic Review			0
77	01/12/2010		EML_NTF	Email Notification			0
76	01/12/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
75	01/04/2010		CTFR	Final Rejection			0
79	12/08/2009	09/18/2009	EIDS.	Electronic Information Disclosure Statement		81	69
73	12/08/2009		IDSC	Information Disclosure Statement considered			0
72	12/08/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
70	10/23/2009		FWDX	Date Forwarded to Examiner			0
67	10/06/2009		DOCK	Case Docketed to Examiner in GAU			0
74	09/21/2009		IDSC	Information Disclosure Statement considered			0
71	09/21/2009		EIDS.	Electronic Information Disclosure Statement			0
66	09/21/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
69	09/18/2009	06/19/2009	A...	Response after Non-Final Action		91	62
68	09/18/2009		XT/G	Request for Extension of Time - Granted			0
64	03/20/2009		ELC_RVW	Electronic Review			0
63	03/19/2009		EML_NTF	Email Notification			0
62	03/19/2009	01/18/2009	MCTNF	Mail Non-Final Rejection	60		53
61	03/16/2009		CTNF	Non-Final Rejection			0
65	03/12/2009	09/18/2008	EIDS.	Electronic Information Disclosure Statement		175	53
60	03/12/2009		IDSC	Information Disclosure Statement considered			0
59	03/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
54	11/09/2008		FWDX	Date Forwarded to Examiner			0
49	10/20/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
57	09/19/2008		IDSC	Information Disclosure Statement considered			0
50	09/19/2008		EIDS.	Electronic Information Disclosure Statement			0
47	09/19/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
53	09/18/2008	06/19/2008	A...	Response after Non-Final Action		91	34
52	09/18/2008		XT/G	Request for Extension of Time - Granted			0
51	09/18/2008		LET.	Miscellaneous Incoming Letter			0
48	08/19/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
44	06/24/2008		DOCK	Case Docketed to Examiner in GAU			0
36	03/25/2008		ELC_RVW	Electronic Review			0
35	03/22/2008		EML_NTF	Email Notification			0
34	03/19/2008	10/25/2005	MCTNF	Mail Non-Final Rejection	876		0.5
58	03/11/2008		IDSC	Information Disclosure Statement considered			0
41	03/11/2008		EIDS.	Electronic Information Disclosure Statement			0
40	03/11/2008		EIDS.	Electronic Information Disclosure Statement			0
39	03/11/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
38	03/11/2008		IDSC	Information Disclosure Statement considered			0
37	03/11/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
33	03/11/2008		CTNF	Non-Final Rejection			0
43	12/31/2007		RCAP	Reference capture on IDS			0
42	12/31/2007		M844	Information Disclosure Statement (IDS) Filed			0
30	12/31/2007		IDSC	Information Disclosure Statement considered			0
26	12/31/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
24	12/28/2007		DOCK	Case Docketed to Examiner in GAU			0
23	10/30/2007		A.PE	Preliminary Amendment			0
29	03/09/2007		IDSC	Information Disclosure Statement considered			0
22	03/09/2007		RCAP	Reference capture on IDS			0
21.7	03/09/2007		M844	Information Disclosure Statement (IDS) Filed			0
21	03/09/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
20	01/09/2007		DOCK	Case Docketed to Examiner in GAU			0
19	08/08/2006		LET.	Miscellaneous Incoming Letter			0
18	08/08/2006		LET.	Miscellaneous Incoming Letter			0
28	07/27/2006		IDSC	Information Disclosure Statement considered			0
17	07/27/2006		RCAP	Reference capture on IDS			0
16.7	07/27/2006		M844	Information Disclosure Statement (IDS) Filed			0
16	07/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
15	04/24/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	04/24/2005		DOCK	Case Docketed to Examiner in GAU			0
27	01/31/2005		IDSC	Information Disclosure Statement considered			0
13	01/31/2005		RCAP	Reference capture on IDS			0
12.7	01/31/2005		M844	Information Disclosure Statement (IDS) Filed			0
12	01/31/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
11	01/10/2005		WROIPE	Application Return from OIPE			0
10	01/10/2005		ROIPE	Application Return TO OIPE			0
9	01/10/2005		OIPE	Application Dispatched from OIPE			0
8	01/10/2005		COMP	Application Is Now Complete			0
7	12/27/2004		ADDFLFEE	Additional Application Filing Fees			0
6	12/27/2004		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	10/20/2004		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	10/01/2004		L194	Cleared by OIPE CSR			0
3	10/01/2004		CLSS	CASE CLASSIFIED BY OIPE			0
2	09/11/2004		SCAN	IFW Scan & PACR Auto Security Review			0
1	08/25/2004		IEXX	Initial Exam Team nn			0
0.5	08/25/2004		EFILE	Filing date			0

Export to: Excel

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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Patent No. 8,025,899	: DECISION ON REQUEST
Rosenberg, et al.	: FOR
Issue Date: September 27, 2011	: RECONSIDERATION OF
Application No. 10/925,442	: PATENT TERM ADJUSTMENT
Filed: August 25, 2004	: and
Atty Docket No. 7113USO2	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 3, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and six (1,206) 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 six (1,206) days is **GRANTED**.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and six (1,206) 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 : 8,025,899 B2

DATED : Sep. 27, 2011

INVENTOR(S) : Berndl, 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 (1127) days

Delete the phrase "by 1127 days" and insert – by 1206 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of :
Virgil E. O'Neil et al. :
Application No. 10/925,594 : DECISION ON PETITION
Filed: August 25, 2004 :
Attorney Docket No. HENTE-091A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 Notice of Non-Compliant Amendment mailed December 21, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272 -4618.

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received July 19, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Dangelo et al. :
Application No. 10/925,824 :
Patent No.: 7,109,581 :
Filed: August 24, 2004 :
Issued: September 19, 2006 :
Attorney Docket No.: :
3010.000300/RFE :
Title: SYSTEM AND METHOD USING :
SELF-ASSEMBLED NANO STRUCTURES :
IN THE DESIGN AND FABRICATION :
OF AN INTEGRATED CIRCUIT MICRO- :
COOLER :

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 October 19, 2010. 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 fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment in the amount of $555 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No.

ANTONELLI, TERRY,
STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,503,246 :
Imamura et al. : DECISION ON
Application No. 10/925,993 : PETITION
Filed: August 26, 2004 :
Atty Docket No. 1297.44137X00 :

This is a decision on the PETITION FOR DUPLICATE LETTERS PATENT UNDER 37 CFR 1.182 filed November 10, 2010, requesting a duplicate because the original Letters Patent has been lost. The petition has been made by an appropriate party in interest, i.e., an attorney of record and includes the petition fee of $400.

Accordingly, the petition is **GRANTED**.

The Office of Data Management is directed to issue a Duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272 - 3219. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 x 119.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letters Patent.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer, (FAX) 571-270-9753

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 7106183
Issue Date: September 12,2006
Application No. 10926052
Filed: August 26,2004
Attorney Docket No. 54661-005002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 9,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 9,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,106,183	2006-09-12	10/926,052	2004-08-26	124017-0001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Donald L. Monin, Jr./	Date (YYYY-MM-DD)	2010-11-09
Name	Donald L. Monin, Jr.	Registration Number	47256

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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UNISYS CORPORATION
UNISYS WAY
MAIL STATION: S1-108
BLUE BELL, PA 19424

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of
Gregory B. Wiedenman, et al.
Application No. 10/926,250
Filed: August 25, 2004
Attorney Docket No. RA5478

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 5, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 5, 2010. Accordingly, the date of abandonment of this application is May 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

A review of the record shows that petitioner filed a duplicate petition to revive on July 13, 2010 that included subsequent payment of the issue, publication and petition fees. Since the $1620 petition fee, $1510 issue fee and $300 publication fee submitted with the petition on July 13, 2010 is considered a duplicate, these fees are deemed unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,465,465	:	DECISION ON REQUEST
Haslam et al.	:	FOR
Issue Date: December 16, 2008	:	RECONSIDERATION OF
Application No. 10/926,330	:	PATENT TERM ADJUSTMENT
Filed: August 26, 2004	:	and
Atty Docket No. 20342/1202326-US2	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 21, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by forty-four (44) 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 sixteen (16) 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.

Examination delay totals 136 days and Applicant delay totals 359 days. The period of "B-delay" totals 283 days, and the 44 days beginning on July 28, 2007 and ending on September 11, 2007 overlap with the period of B-delay.

Therefore, the Office will remove the 148 days of Office delay entered as "PTA 36 months and enter 239 (283 - 44) days in its place.

It follows that the patent term adjustment is 16 days (136 days of examination delay plus 283 days of B-delay minus 44 days of overlap minus 359 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 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 **sixteen (16) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,465,465 B2

DATED : **December 16, 2008** **DRAFT**

INVENTOR(S) : Haslam 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 0 days

Delete the phrase "by 0 days" and insert – by 16 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,465,465	:	CORRECTED DECISION ON
Haslam et al.	:	REQUEST FOR
Issue Date: December 16, 2008	:	RECONSIDERATION OF
Application No. 10/926,330	:	PATENT TERM ADJUSTMENT
Filed: August 26, 2004	:	and
Atty Docket No. 20342/1202326-US2	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

A petition pursuant to 37 CFR 1.705(d) was filed on August 21, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by forty-four (44) days. A decision was mailed on September 21, 2010, which indicated that the petition was granted to the extent that the patent term is extended or adjusted by sixteen (16) days.

The decision set forth, *in pertinent part*:

> Examination delay totals 136 days and Applicant delay totals 359 days. The period of "B-delay" totals 283 days, and the 44 days beginning on July 28, 2007 and ending on September 11, 2007 overlap with the period of B-delay.
>
> ...
>
> It follows that the patent term adjustment is 16 days (136 days of examination delay plus 283 days of B-delay minus 44 days of overlap minus 359 days of Applicant delay).

It is noted that the over three year period begins on August 26, 2007. Therefore, the entire 44-day period which begins on July 28, 2007 does not overlap with the B-delay. The correct period of overlap begins on August 26, 2007 and

ends on September 11, 2007, which results in 16 days of overlap.

It follows that the above-reproduced paragraphs should have read as follows:

> Examination delay totals 136 days and Applicant delay totals 359 days. The period of "B-delay" totals 267 (283 minus 16 days of overlap, beginning on August 26, 2007 and ending on September 11, 2007).
>
> ...
>
> It follows that the Office agrees that the patent term adjustment is 44 (136 days of examination delay plus 267 days of B-delay minus 359 days of Applicant delay) days.

Therefore, the Office will remove the 148 days of Office delay entered as "PTA 36 months" and the 91 days of Office delay entered as "Record a Petition Decision of Granted for Patent Term Adjustment after Issue" and enter 267 (283 - 16) days in their place.

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 **forty-four (44) 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 : 7,465,465 B2

DATED : **December 16, 2008** **DRAFT**

INVENTOR(S) : Haslam 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 0 days

Delete the phrase "by 0 days" and insert – by 44 days--

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DEC 01 2011
OFFICE OF PETITIONS

Steven L. Highlander
FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701-3271

In re Patent of	:	
Ueno et al.	:	DECISION ON REQUEST FOR
Patent No. 8,021,831	:	RECONSIDERATION OF
Issue Date: September 20, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/926,409	:	
Filed: August 25, 2004	:	
Attorney Docket No. UTSC:821US	:	

This is a decision on the petition filed on November 18, 2011, 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 twenty-seven (527) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**.

On September 20, 2011, the above-identified application matured into U.S. Patent No. 8,021,831, with a revised patent term adjustment of 480 days. On November 18, 2011, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 527.

Patentees disclose that the PTA Calculations incorrectly reflects the date of receipt of an amendment under 37 CFR 1.111 as March 10, 2008, instead of March 11, 2008. As a result, the Office incorrectly calculated a 12 day reduction.

A review of the application history reveals that patentees are correct. The Office incorrectly entered the date of receipt of the amendment under 37 CFR 1.111 in the PTA Calculations as March 10, 2008 instead of March 11, 2008. Thus, the date of

March 11, 2008, not March 10, 2008, should have been used for the purpose of calculating patent term adjustment. In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should have been reduced by 13 days (not 12 days), counting the number of days in the period beginning on the day after the date that is three months after the mailing date of the non-final Office action, February 28, 2008, and ending on the date the reply was filed, March 11, 2008. Accordingly, the period of reduction of 12 days will be removed and a period of reduction of 13 days will be entered.

Patentees dispute the period of reduction of 48 days entered for the August 4, 2011 filing of a letter that patentees submitted pursuant to their duty of good faith and candor regarding a perceived error in patent term adjustment.

§ 1.704(e) provides that:

Submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Likewise, filing of a letter pursuant to comment 43 is covered by 37 CFR 1.704(e). Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently, 48 days will be properly restored to patentees' patent term adjustment.

In view thereof, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred twenty-seven days (527) days, which is 619 days of A delay + 425 days of B delay - 517 (34+61+13+56+28+265+60) days of Applicant delay.

The Office acknowledges receipt of the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred twenty-seven (527)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,021,831 B2

DATED : **September 20, 2011** **DRAFT**

INVENTOR(S) : Ueno 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 480 days

Delete the phrase "by 480 days" and insert – by 527 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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307 MIDDLETOWN-LINCROFT RD.
LINCROFT NJ 07738

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
BENVENISTE :
Application No. 10/926,501 : ON PETITION
Filed: August 26, 2004 :
Attorney Docket No. 503049-A-01-US :
(BENVENIST)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 3, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a statement of unintentional delay have been received.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID W. ROUILLE, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
1700 WEST PARK DRIVE, STE. 280,
WESTBOROUGH, MA 01581

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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In re Patent No. 7098600
Issue Date: August 29,2006
Application No. 10926525
Filed: August 26,2004
Attorney Docket No. 6042.005

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 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 February 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)
7,098,600	2006-08-29	10/926,525	2004-08-26	6042.005

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tuvia Rotberg/	Date (YYYY-MM-DD)	2011-02-10
Name	Tuvia Rotberg	Registration Number	58167

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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Hildebrand, Christa
Norris McLaughlin & Marcus PA
875 Third Avenue, 8th Floor
New York NY 10022

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Neuss :
Application No. 10/926,568 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 103821-3 :
For: TIE ROD FOR WHEEL SUSPENSION
OF A VEHICLE

This is a decision on the petition under 37 CFR 1.181, filed September 2, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to timely respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed October 25, 2004, which set an extendable (2) month period for reply. A Notice of Abandonment was mailed on July 11, 2005.

Petitioner asserts that a proper response was in fact timely received in the Office on January 25, 2005. In support, petitioner submitted a copy of the response to the missing parts, the fee transmittal authorizing payment of fees to deposit account, an executed declaration, a copy of the notice of missing parts, and a petition for an extension of time. All these documents were itemized on a facsimile coversheet that contained a proper certificate of facsimile transmission affixed thereto.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The itemized facsimile coversheet bears a proper certificate of mailing, dated January 25, 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

In addition, petitioner has submitted an auto-reply facsimile transmission from the Office, showing that the Office received a 10 page document from Norris, McLaughlin & Marcus on January 25, 2005. The first page of the auto-reply facsimile is a reproduction of the facsimile coversheet, dated January 25, 2005.

It is apparent the January 25, 2005 facsimile transmission was received in the Office and later misplaced.

Therefore, the response to the October 25, 2004 Notice to File Missing Parts of Nonprovisional Application was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

It is noted that the required fees of $395.00 basic filing fee, $60.00 one month extension of time, and $65.00 surcharge for late submission of the basic filing fee were charged on accounting date January 24, 2006.

After the mailing of this decision, the application file will be referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 14 2010

OFFICE OF PETITIONS

In re Patent of Gary Heinz	:	DECISION ON REQUEST
Patent No. 7,634,764	:	FOR RECONSIDERATION OF
Issue Date: December 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/926,620	:	AND NOTICE OF INTENT TO
Filing Date: August 26, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 15609US02	:	CORRECTION

This is a decision in response to the "Request for Reconsideration of USPTO Recalculation of Patent Term Adjustment in View of *Wyeth*" filed May 26, 2010, stating the correct patent term adjustment is seven hundred twenty-five (725) days.

The request for reconsideration of the patent term adjustment is **dismissed**.

The patent issued December 15, 2009. The patent term adjustment indicated on the patent was 546 days.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed April 22, 2010.

On April 28, 2010, the Office issued a decision in response to the April 22, 2010 request. The decision indicated the Office planned to issue a certificate of correction indicating the term of the patent is extended or adjusted by 724 days.

The instant request was filed May 26, 2010, and asserts the correct number of days of patent term adjustment is 725 days.

Patentee's basis for asserting the correct number of days of patent term adjustment is 725 days is extremely unclear. Patentee essentially asserts the patent term adjustment is 725 days because the filing date for the application is August 26, 2004, the date three years after the filing date is August 26, 2007, and a request for continued examination was filed February 21, 2008. The Office will *assume* Patentee is arguing the patent term adjustment should be greater than one day based on a belief the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 179 days instead of 178 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. Although Patentee appears to recognize the need to exclude a time period due to the filing of a request for continued examination from the period of B Delay, Patentee *appears* to have failed to recognize the actual date the RCE was filed is part of the time that must be excluded. Excluding the date the RCE was filed from the period of B Delay, results in B Delay of 178 days, not 179 days.

In view of the prior discussion, the instant request fails to establish the patent term adjustment should be 725 days instead of 724 days.

As stated in the prior decision mailed April 21, 2010, a certificate of correct indicating the patent term adjustment is 724 days will be issued.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twenty-four (724)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,634,764 B2
APPLICATION NO.	:	10/926,620
DATED	:	December 15, 2009
INVENTOR(S)	:	Gary Heinz

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 546 days.

Delete the phrase "by 546 days" and insert -- by 724 days--

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1500 FOREST AVENUE, SUITE 212
RICHMOND VA 23229

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 6,951,685 :
Issued: October 4, 2005 :
Application No. 10/926,681 : NOTICE
Filed: August 25, 2004 :
Attorney Docket No. 1539(ITS)DIV :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 21, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the request was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
PIERCE, et al :
Application No. 10/926,721 : ON PETITION
Filed: August 26, 2004 :
Attorney Docket No. ICOP_110005 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 27, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 28, 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 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 2621 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
PATEL, et al :
Application No. 10/926,752 : DECISION ON PETITION
Filed: August 26, 2004 :
Attorney Docket No. 5026 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 2, 2010. A Notice of Abandonment was mailed September 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1860; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1793 for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STUART D. FRENKEL
FRENKEL & ASSOCIATES, PC
3975 UNIVERSITY DRIVE, SUITE 330
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