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THE ECLIPSE CROUP, LLP
6345 BALBOA BLVD
SUITE 325
ENCINO, CA 91316

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Philipp Wohrle, et al.	:	
Application No. 10/926,767	:	DECISION ON PETITION
Filed: August 26, 2004	:	
Attorney Docket No. HI09063USU	:	

This is a decision on the petition, filed November 28, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of March 15, 2011, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before June 15, 2011.

Petitioner states that a timely reply was mailed via certificate of mailing on July 15, 2011, which included the following papers: an amendment with a request for a one (1) month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated July 15, 2011, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

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 15, 2011 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on July 15, 2011.

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

This application is being referred to Technology Center AU 2482 for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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OCT 26 2010

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,656,350	:	
Charles Abraham	:	
Issue Date: February 2, 2010	:	DECISION ON
Application No. 10/926,792	:	PATENT TERM ADJUSTMENT
Filed: August 26, 2004	:	
Attorney Docket No. 18944US01	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*", filed June 10, 2010. Patentee requests that the patent term adjustment indicated on the patent be corrected from two hundred twelve (212) days to two hundred thirteen (213) days.

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

On February 2, 2010, the above-identified application matured into U.S. Patent No. 7,656,350 with a patent term adjustment of 135 days. On May 5, 2010, patentee filed a "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH". The Office mailed a decision on May 10, 2010, stating that the correct patent term adjustment was 212 days.

Patentee argues that the patent term adjustment should be 213 days, because the Office erred in according 77 days of PTO delay for failing to issue the patent within three years. Patentee asserts that the three year delay should be 78 days.

A review of the file does not reveal any error in the determination of the patent term adjustment. The application was filed on August 26, 2004. Accordingly, the three year delay period began on August 27, 2007, and ended on November 11, 2007 (applicant filed an RCE on November 12, 2007). See 37 CFR 1.703(b)(1).

In view thereof, the correct determination of PTA at the time of issuance is **two hundred twelve (212)** days (412 (335+77) days of PTO delay, reduced by 200 (80_24+33+32+31) days of applicant delay).

Receipt of the $200 fee under 37 C.F.R. §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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/926,856	08/26/2004	Jiansong Lin	CS25035RL	9611

20280 7590 09/10/2010
MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE, IL 60048-5343

EXAMINER
DOAN, KIET M

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
09/10/2010	ELECTRONIC

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

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

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

DOCKETING.LIBERTYVILLE@MOTOROLA.COM

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

In re Application of:
LIN, JIANSONG et al.
Application Serial No.: 10/926,856
Filed: August 26, 2004
For: **MONITORING AND REMOTE CONTROL OF WIRELESS COMMUNICATION DEVICE ACCESSORIES AND FUNCTIONALITY**

DECISION
ON PETITION

This is a decision on the petition filed July 22, 2010 under 37 CFR § 1.181 in regard to the Examiner's Refusal to enter an amendment after final Office action.

Petitioner states that "...amended Claim 1, which includes the limitations of original dependent Claim 4, is equivalent to original dependent Claim 4, subject to an amendment to Claim 1 made in Applicant's response under 37 CFR 1.111 filed on 5 October 2007. Since dependent Claim 4 (as amended by virtue of the amendment to Claim 1 on 5 October 2007) was previously substantively examined on four (4) separate occasions, no new issues are raised by the amendment. Thus the amendment of Claim 1 to include the limitations of original Claim 4 in Applicant's after-final response on 6 July 2010 raises no new issues. The amendment should be entered."

A review of the file records reveals that a final Office action was mailed on June 03, 2010 wherein Claims 1-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Blow (WO 099-53621) in view of Parker et al. (US 2004/0132480 A1).

On July 06, 2010, Applicant's file an amendment after final Office action, requesting the incorporation of dependent claim 4 into the independent claim 1.

On July 21, 2010 the Office mailed an advisory action which indicated that the proposed amendment raised new issues that would require further consideration and/or search.

Applicant filed current petition on July 22, 2010.

Applicant subsequently filed a Notice of Appeal and Appeal Brief on August 20, 2010. A review of the Appeal Brief indicates claims 1-20, as filed on March 23, 2010 prior to final office action on June 03, 2010, are the claims identified on appeal.

As evidenced by Applicants filing of a Notice of Appeal and Appeal Brief, the petition to have the amendment after final entered is **DISMISSED AS MOOT**.

The file is being forwarded to the examiner for action on the Appeal Brief.

Wanda L. Walker

Wanda L. Walker, Director
Technology Center 2600
Communications

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In re Patent No. 7134965
Issue Date: November 14,2006
Application No. 10926885
Filed: August 25,2004
Attorney Docket No.

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

This is a decision on the electronic petition, filed January 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 January 3,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7134965	2006-11-14	10926885	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

Under 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	/Christopher Deasy/	Date (YYYY-MM-DD)	2011-01-03
Name	Christopher Deasy		

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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DALY, CROWLEY, MOFFORD & DURKEE, LLP
SUITE 301A
354A TURNPIKE STREET
CANTON MA 02021-2714

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FEB 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,199,409	:	
Issued: April 3, 2007	:	
Application No. 10/926,937	:	ON PETITION
Filed: August 26, 2004	:	
Attorney Docket No. MIT-103PUS	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 11, 2011.

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

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

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

This 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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/927,241	08/27/2004	In-Kyu Park	1901.1342	2708

21171 7590 08/23/2010
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
VANCHY JR, MICHAEL J

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
08/23/2010	PAPER

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

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

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AUG 23 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
Park, In-Kyu *et al.*
Serial No.: 10/927,241
Filed: August 27, 2004
For: **METHOD AND APPARATUS FOR IMAGE-BASED PHOTOREALISTIC 3D FACE MODELING**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed November 30, 2004 and July 23, 2010, requesting the acceptance of color drawings.

The petition requests that the color drawings identified in Figures 2, 3, 4, 10, 11, 17, 19, 22, 23, 24, 25, 27, 28, 30, 35, 38, 39, 42, 43, 44, 45, 46, 47, 48, 49, 52, 53, 54, 55, 56, 57, 58, 61, 62, 65, 66, 67, 68 and 69 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition is **GRANTED**.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C.
SMITH & NEPHEW, INC.
150 MINUTEMAN ROAD
ANDOVER, MA 01810

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SEP 16 2011
OFFICE OF PETITIONS

In re Application of
Cemal Shener et al
Application No. 10/927,244
Filed: August 27, 2004
Attorney Docket No. 00167-536001/PT2765USNP

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, September 14, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 17, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3779 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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Paper No.

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SEP 28 2010

OFFICE OF PETITIONS

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE WA 98104-7043

In re Patent No. 7,583,115	:	DECISION ON REQUEST
Gomm et al.	:	FOR
Issue Date: September 1, 2009	:	RECONSIDERATION OF
Application No. 10/927,248	:	PATENT TERM ADJUSTMENT
Filed: August 26, 2004	:	and
Atty Docket No. 190071/US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred and eleven (611) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **DISMISSED**.

On September 1, 2009, Application No. 10/927,248 matured into U.S. Patent No. 7,583,115, with a patent term adjustment of 374 days. On February 24, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION," indicating that the patent term adjustment had been determined to be 217 days.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

Patentee argues the correct patent term adjustment should be 611 days, however this petition contains several miscalculations.

First, 37 C.F.R. § 1.703(a)(1) indicates that the patent term will be adjusted by:

> [t]he number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first…

The application was filed on August 26, 2004, and a non-final office action was mailed 14 months and 91 (not 97[2]) days later. This warrants an adjustment of 91 days, pursuant to 37 C.F.R. § 1.703(a)(1).

Second, 37 C.F.R. § 1.703(b)(1) indicates:

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

As 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 27, 2007 and ends on October 9, 2008, the day before the first RCE was filed, which amounts to 411 (not 409[3]) days. See U.S.C. 154(b)(1)(B)(i).

Third, a notice of appeal was filed on December 1, 2006, and a non-final office action was mailed on November 29, 2007. The

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[1] Petition, page 1.
[2] Petition, page 2, section I.
[3] Petition, page 2, section II.

364 (not 238[4]) days of the over three year period consumed by appellate review, beginning on December 1, 2006 and ending on November 29, 2007, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

Fourth, 37 C.F.R. § 1.704(b) indicates:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A non-final office action was mailed on January 25, 2006, and a response was filed three months and six (not seven[5]) days later on May 1, 2006. It follows that a six day reduction is warranted, pursuant to 37 C.F.R. § 1.704(b).

As such, the patent term adjustment is increased by 217 (207 days of examination delay plus 47 "B-delay" (411 days over the three year period minus the aforementioned excluded 364 days minus 0 days of overlap) minus 37 days of applicant delay), not 611 days.

In view thereof, the patent term adjustment of 217 days as set forth in the mailing of April 21, 2010 is correct.

---

[4] Petition, page 2, section III: Patentee began the calculation at the date on which the appeal brief was filed, however the period of time that was consumed by appellate review commences on the date on which the notice of appeal is filed. Moreover, 35 U.S.C. § 154(B)(ii) requires the Office to reduce any accorded "B" delay by the *entire* 364 days that were consumed by appellate review.

[5] Petition, page 2, section IV.

The patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred and seventeen (217) days**, as noted in the April 21, 2010 mailing.

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 response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

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

---

[6] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[7] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[8] (571) 273-8300 - please note this is a central facsimile number.
[9] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7.583,115 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Gomm 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 374 days

Delete the phrase "by 374 days" and insert – by 217 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Application of :
Beringer et al. :
Application No. 10/927,313 : ON PETITION
Filed: August 27, 2004 :
Atty Docket No. 09282.0021-00 :

This is in response to the PETITION FOR WITHDRAWAL OF TERMINAL DISCLAIMER UNDER 37 CFR §1.182 filed June 18, 2009, requesting withdrawal of a terminal disclaimer filed January 16, 2009 on the basis that it incorrectly identified a target application number. Applicant submits on petition a Replacement Terminal Disclaimer to replace and render void the terminal disclaimer filed January 16, 2009.

The petition is **GRANTED**.

The terminal disclaimer filed on January 16, 2009 is hereby **WITHDRAWN**.

The examiner states that the terminal disclaimer does not apply to any claim currently of record for the proper reasons set forth by applicants, the "typographical error" in the terminal disclaimer. Thus, according to the examiner, it is permissible to withdraw the terminal disclaimer.

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

Receipt of the petition fee of $400 on filing of the petition is acknowledged.

Technology Center AU 2166 has been advised of this decision. The application is being referred to the Technology Center for further action in light of this decision, **including withdrawal of the terminal disclaimer filed on January 16, 2009**.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 3,2011

In re Application of :

Ned Hunter

Application No : 10927429

Filed : 25-Aug-2004

Attorney Docket No : 046125/282162

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 3,2011

The request is **APPROVED.**

The request was signed by Cory C. Davis (registration no. 59932) on behalf of all attorneys/agents associated with Customer Number 00826 . All attorneys/agents associated with Cusotmer Number 00826 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	Mr. Ned Hunter
Name2	Stratizon Corporation
Address 1	5805 State Bridge Road
Address 2	Suite 223
City	Johns Creek
State	GA
Postal Code	30097
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	10927429
Filing Date	25-Aug-2004
First Named Inventor	Ned Hunter
Art Unit	3623
Examiner Name	JONATHAN STERRETT
Attorney Docket Number	046125/282162
Title	System for assisting user with task involving form, and related apparatuses, methods, and computer-readable media

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 00826

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

10.40(c)(1)(iv)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Mr. Ned Hunter Stratizon Corporation
Address	5805 State Bridge Road Suite 223
City	Johns Creek
State	GA
Postal Code	30097
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Cory Davis/
Name	Cory C. Davis
Registration Number	59932

UNITED STATES 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 22 2011
OFFICE OF PETITIONS

James Klekotka
Suite 10
4350 W. Chandler Blvd.
Chandler AZ 85226

In re Patent No. 7,451,011 :
Issue Date: 11/11/2008 :
Application No. 10/927,514 : ON PETITION
Filed: 08/27/2004 :
Docket No. FIS920040411US1 (RAJ-023) :

This is in response to the communication filed December 11, 2008, which is properly treated as a petition under 37 CFR 3.81(b).

Patentees request correction of the front page of the Letters Patent to include the correct assignee data via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form and the certificate of correction fee. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee data is GRANTED.

The $130.00 processing fee under 37 CFR 1.17(i) will be charged to the Deposit Account.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Christina 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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

MAILED

APR 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Todd Blake	:	
Application No. 10/927,582	:	DECISION ON PETITION
Filed: August 26, 2004	:	
Attorney Docket No. **ST-039 Cont. 2**	:	

This is a decision on the petition, filed November 5, 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 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). A Notice of Abandonment was mailed on October 15, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since the application was prematurely abandoned. Petitioner states in the instant petition that "[t]he Notice of Panel Decision states that the appeal has proceeded to the Board of Patent Appeals and interferences, and that the 'time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater.' In particular, the two month time period running from the filing of the Notice of Appeal is April 4, 2010 while the one month date from the mailing of the May 7, 2010 Notice of Panel Decision is June 7, 2010." A review of the application file record confirms that the Notice of Panel Decision from Pre-Appeal Brief Review was mailed May 7, 2010. Accordingly, a response was due on or before June 7, 2010, or, on or before November 7, 2010, with a five (5) month extensions of time. Petitioner has filed a Request for Continued Examination (RCE) along with the submission required under 37 CFR 1.114 on November 5, 2010, together with fee for a five (5) month extension of time. As this reply was timely filed, the application is not abandoned in fact.

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

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

This application is being referred to Technology Center AU 2484 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 received November 5, 2010.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

MAILED
AUG 18 2010
OFFICE OF PETITIONS

In re Application of Ye et al. :
Reissue Application No. 10/927,655 :
Reissue Filing Date: August 26, 2004 : Decision on Petition
Reissue of Patent No. 6,649,147 :
Original Issue Date: November 18, 2003 :
Attorney Docket No. AA484E :

This is a decision on the renewed petition under 37 C.F.R. § 1.183 filed August 4, 2010, and supplemented August 9, 2010, seeking waiver of 37 C.F.R. §§ 1.172 and 1.175 to the extent the regulations require a supplemental declaration in a reissue application be executed by all the named inventors.

The petition is **granted**.

A prior petition was filed January 19, 2010.

The Office mailed a decision dismissing the petition on June 8, 2010. The decision stated the petition was being treated as a petition under 37 C.F.R. § 1.183 and stated,

> The petition requests the Office accept a "corrected Reissue declaration signed by all [the] inventors, except Hai (NMN) Ye."
>
> The Office is unable to accept a supplemental declaration only signed by two of the three inventors in this case because such a supplemental declaration has not been filed. A request for reconsideration and a declaration signed by inventors Buckley and Yue should be filed.

A supplemental declaration signed by inventors Buckley and Yue was filed August 9, 2010. The supplemental declaration is not signed by inventor Hai Ye.

In view of the efforts recounted in the petition to obtain the signature of inventor Hai Ye, the Office has determined justice would be served by waiving the requirement for his signature on the supplemental declaration filed August 9, 2010.

Technology Center Art Unit 1612 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/927,801	26 August, 2004	SEIGNEURBIEUX, PIERRE	8559-0005

	EXAMINER	
Stolowitz Ford Cowger LLP 621 SW Morrison St Suite 600 Portland, OR 97205	FARUK HAMZA	
	ART UNIT	PAPER
	2466	20120330A

DATE MAILED:

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

Commissioner for Patents

The certificate of correction filed on 9/27/10 is approved.

/Faruk Hamza/
Supervisory Patent Examiner, Art Unit 2466

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/27/2010

TO SPE OF : ART UNIT 2466 Daniel Ryman (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/927801 Patent No.: 7428039

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

H. Riley
Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: COCX is Approved.

/Faruk Hamza/ — **SPE**

2466 — **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

KELLER LAPUMA WOODARD PC - IV
15154 Pinecrest Drive
Council Bluffs IA 51503

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Mark A. Malamud et al.	:	
Application No. 10/927,842	:	DECISION ON PETITION
Filed: August 27, 2004	:	
Attorney Docket No. 0404-003-002-000000	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of December 15, 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 February 16, 2011. *See* MPEP 1214.06.

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

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

This application is being referred to the Board of Patent Appeals and Interferences for processing of the response in the normal course of business.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of
Robert B. Staszewki et al.
Application No. 10/927,879
Filed: August 27, 2004
Attorney Docket No. **TI-36628**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 26, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 January 27, 2010.

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

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

This application is being referred to Technology Center AU 2611 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 14 2011
OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Patent No. 7,582,282	: DECISION ON PATENT TERM
Issued: September 1, 2009	: ADJUSTMENT and NOTICE OF INTENT
Application No. 10/927,904	: TO ISSUE CERTIFICATE OF
Filed: August 26, 2004	: CORRECTION
Dkt. No.: 10-1311-US	:

This is a decision on the petition filed on November 2, 2009 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1008 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 1008 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1008 days.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,282

DATED : September 1, 2009 **DRAFT**

INVENTOR(S) : Dervieux, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 565 days

Delete the phrase "by 565 days" and insert – by 1008 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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JUAN CARLOS A. MARQUEZ
C/O STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314-1437

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,059,729	:	
Issued: June 13, 2006	:	
Application No. 10/928,196	:	ON PETITION
Filed: August 30, 2004	:	
Attorney Docket No. NITT.0230	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED
OCT 28 2010
OFFICE OF PETITIONS

In re Application of	:	
Uwe Schweichkert, et al.	:	DECISION ON PETITION
Application No. 10/928,265	:	TO WITHDRAW
Filed: August 30, 2004	:	FROM RECORD
Attorney Docket No. 741439-18	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed September 29, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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SEP 20 2010

OFFICE OF PETITIONS

TUROCY & WATSON, LLP
127 PUBLIC SQUARE
57TH FLOOR, KEY TOWER
CLEVELAND, OH 44114

In re Patent No. 7,120,615 :
Issue Date: October 10, 2006 :
Application No. 10/928,278 : NOTICE
Filed: August 30, 2004 :
Attorney Docket No. THK-102 :

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 06 2011

OFFICE OF PETITIONS

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :
Rod Langley : DECISION ON PETITION
Application No. 10/928,374 :
Filed: August 27, 2004 :
Atty Docket No. 2269-2806.5US :
(89-0088.10 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed November 4, 2010. Given the arguments on petition, the petition is properly considered as a petition under 37 CFR 1.181 (no-fee) to withdraw the holding of abandonment on the basis that the Office action was not received at the correspondence address of record.

The above-identified application became abandoned for failure to timely pay the required issue fee, within three months of the mailing of the notice of allowance, sent May 11, 2010[1]. This statutory period was nonextendable. A courtesy Notice of Abandonment was sent on October 19, 2010.

In response, applicants promptly filed the instant petition[2]. Petitioner states, among other things, that the Notice of Allowance sent May 11, 2010 was not received by Attorney for Applicants. The practitioner states that a search of the Applicant's file jacket and the records of our firm contain no

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[1] The record supports a conclusion that on October 8, 2009, a Notice of Allowability (which was not supplemental) was mailed in this application without the usual accompanying Notice of Allowance. In response, applicants self-prepared and filed on December 31, 2009, a PTOL-85(b), response to Notice of Allowance, attempting to pay the issue fee within the normal 3-month statutory period. Inasmuch as the Office had never issued a PTOL-85(b) in this application, this form was not processed.

[2] To facilitate action on your petition in the future, it is suggested that when entering explanation petitioner use a font size at least as large as the font size of the pre-printed text on the form. The form is scanned into the image file wrapper for action and then viewable only electronically. Smaller text makes the form unreadable without magnification.

record that this Office communication was received. Practitioner further states that had it been received it would have been docketed. In support thereof, practitioner submits, among other things, a copy of the firm's docket showing all deadlines and documents from filing of the present application to the date, as well as, a copy of their master docket report showing all documents received from the USPTO (Exhibits D and E). Further, practitioner submits a copy of an email dated May 11, 2010 from the Office showing a listing of applications associated with the customer number (used for this application also) wherein no communication relating to the present application is shown on that date (Exhibit F).

A review of the application image file wrapper reveals irregularities[3] in the "mailing" of the Notice of Allowance dated May 11, 2010. A review of the application history reveals that correspondence in this application has been received

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[3] In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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

Had there not been demonstrated irregularities in the mailing, it is noted that the evidence submitted by practitioner is sufficient to meet this showing.

electronically since September 4, 2007. That is, when an Office action (or any other outgoing correspondence) has been made of record in an application, applicants are notified electronically via e-mail that the Office communication is available for viewing and downloading in Private PAIR. Although the Notice of Allowance is present in the record of the application, no notification of the correspondence of that date is present in the image file wrapper. Further, the practitioner provides a copy of the notification of correspondence of that date for their customer number, which omits this application. (It is likely that the Notice of Allowance in this application was prepared after the notification of correspondence of that date and no further notification occurred for the same date. The notification of May 11, 2010 was sent at 6:18 am). Given these irregularities, the presumption that the correspondence was properly sent to the applicant at the correspondence address of record is overcome.

In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Since consideration of the petition under 37 CFR 1.137(a) is unnecessary, the petition fee is being refunded to the Deposit Account.

Technology Center AU 1713 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing the Notice of Allowance and re-starting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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)
7198270	2007-04-03	10928421	2004-08-27	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark S Hubert/	Date (YYYY-MM-DD)	2011-05-17
Name	Mark S. Hubert	Registration Number	50540

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. 7198270
Issue Date: April 3,2007
Application No. 10928421
Filed: August 27,2004
Attorney Docket No.

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

This is a decision on the electronic petition, filed May 18,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 18,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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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FRANK A. LUKASIK, J.D.
1550 ELCAMINO REAL, APT. 221
THE VILLAGES FL 32159

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Application of HORVAT, BRANIMIR L. Application No. 10/928,436 Filed: 12/13/2004 Title: SEQUENTIAL LYMPHEDEMA PUMP (SLP)	: : : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed March 10, 2010, to revive the above-identified application.

The petition under 37 CFR 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."[1] Extensions of time under 37 CFR 1.136(a) are permitted. No additional fee is required for filing a "Renewed Petition under 37 CFR 1.137(a)."

On August 17, 2009, the Office mailed a Notice of Non-Compliant Amendment, which set a one month period for reply. In the absence of a timely filed reply, the application became abandoned on September 18, 2009. A Notice of Abandonment was mailed on December 24, 2009.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(l);

[1] In the alternative, applicant may file a petition under 37 CFR 1.137(b) accompanied by the required petition fee.

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks items (2) and (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable". Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

As to requirement (2):

The reply as filed cannot be accepted because it was not signed as required in 37 CFR 1.4(d).

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

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Pursuant to 37 CFR 1.4(d):

(1) Handwritten signature. Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:

(i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or

(ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

(2) S-signature. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1). An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature not covered by a handwritten signature of § 1.4(d)(1). Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the Office electronic filing system as an attachment as provided in § 1.6(a)(4), for a patent application, patent, or a reexamination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) of this section are as follows.

(i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr. /); and

(ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his /her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner 's registration number; otherwise the number character may not be used in an S-signature.

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

As to requirement (3):

Applicant asserted that the delay was unavoidable due to non-receipt of the Notice of Non-Compliant Amendment of August 17, 2009. Specifically, the attorney of record stated:

> The Undersigned first learned of the August 17, 2009 Non-Compliant Amendment in a copy of a November 17, 2009 letter from the Commissioner of Patents to the Inventor (ATT. III). A FAX from the Undersigned requested the Inventor to search his files for the Office Action (ATT. IV). The Undersigned received the copy of the Amendment in a FAX DATED January 1, 2010 from the USPTO (ATT. II). Please note that both Non-Compliant Amendments were mailed to the Inventor rather than the Undersigned, the Attorney of Record.
>
> The notice of Abandonment, sent to the inventor, was FAXed by the Inventor to the Undersigned on December 31, 2009 (ATT. V). It is respectfully submitted that the failure to file a second response to a Notice of Non-Compliant Amendment in a timely manner was a result of non-receipt of the requirement by the Undersigned for the reasons cited above and the Application was abandoned unavoidably. The Petition Fee is attached.

Petition p. 2.

The Office reminds petitioner that the applicant bears the burden of establishing that a timely change of correspondence address was submitted with the Office. A review of the USPTO records indicates that a change of the correspondence address was not received in the Office until March 10, 2010, after the mailing date of the Notice of Non-Compliant Amendment. Therefore, it appears that the Notice was properly mailed to the inventor as his mailing address was the address of record on August 17, 2009. The record does not support a showing that applicant promptly notify the Office of a change of correspondence address. The Office notes that a belated notification to the USPTO of a change of correspondence address does not constitute proper notification as to establish unavoidable delay. An applicant is responsible for promptly informing the Office of any change of address. Furthermore, the Office notes that where an application becomes abandoned as a consequence of a change of correspondence address an adequate showing of "unavoidable" delay requires a showing that applicant exercised due care to promptly notify the Office of the change of address and filed a timely notification of the change of address in the application at hand.[5] A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[6]

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[5] MPEP 711.03(c)(III)(C)(2)

[6] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987); 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).

Moreover, a review of the record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment. In the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Non-Compliant Amendment was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the inventor stating that he did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of applicant's docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement. For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

In this instance, the showing of record is insufficient to establish non-receipt of the Notice of Non-Compliant Amendment as it appears that the Notice was properly mailed to the address of record as it existed on August 17, 2009. Furthermore, petitioner did not submit a statement from the inventor or copies of his records where the non-received Notice of Non-Compliant Amendment would have been entered had it been received and docketed.

Accordingly, the petition under 37 CFR 1.137(a) is **dismissed**.

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 1.137(b) on the basis of unintentional delay.

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

(1) The required reply to the outstanding Office action;

(2) The petition fee as set forth in 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional; and,

(4) Any terminal disclaimer required pursuant 37 CFR 1.137(d), accompanied by the fee set forth in § 1.20(d).

The appropriate form is enclosed.

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRANK A. LUKASIK, J.D.
1550 ELCAMINO REAL, APT. 221
THE VILLAGES FL 32159

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of :
HORVAT, BRANIMIR L. :
Application No. 10/928,436 : ON PETITION
Filed: 12/13/2004 :
Title: SEQUENTIAL LYMPHEDEMA :
PUMP (SLP) :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2010, to revive the above-identified application.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Extensions of time under 37 CFR 1.136(a) are permitted. No additional fee is required for filing a "Renewed Petition under 37 CFR 1.137(b)."

On August 17, 2009, the Office mailed a Notice of Non-Compliant Amendment, which set a one month period for reply. In the absence of a timely filed reply, the application became abandoned on September 18, 2009. A Notice of Abandonment was mailed on December 24, 2009.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (2) above.

As stated in 37 CFR 1.33(b), Amendments and other papers in the application must be signed by:

(1) A patent practitioner of record appointed in compliance with § 1.32(b);

(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

In this instance, the reply submitted with the present petition cannot be accepted because it was not signed. Accordingly, the petition is dismissed.

Petitioner must submit a renewed petition under 37 CFR 1.137(b) accompanied by a reply signed by the practitioner at the end of the response. Furthermore, the pages of the reply should be numbered consecutively, starting with 1, and the numbers should be centrally located preferably below the text. No additional petition fee is required for the filing of a 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Application of :
HORVAT, BRANIMIR L. :
Application No. 10/928,436 :
Filed: 12/13/2004 :
Title: SEQUENTIAL LYMPHEDEMA :
PUMP (SLP) :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 2, 2011,[1] to revive the above-identified application.

On August 17, 2009, the Office mailed a Notice of Non-Compliant Amendment, which set a one month period for reply. In the absence of a timely filed reply, the application became abandoned on September 18, 2009. A Notice of Abandonment was mailed on December 24, 2009.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee, and (3) an acceptable statement of unintentional delay.

This application is being referred to Technology Center AU 3731 for appropriate action.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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[1] The previous decision mailed February 7, 2011, set an extendable period of two months from the mail date of that decision to submit a request for reconsideration (i.e. on or before April 7, 2011). As the present petition was filed on May 2, 2011, a one-month extension of time and a $65.00 extension of time fee are necessary for the petition to be considered timely filed. The Office finance records show that petitioner paid a duplicate fee of $810.00 for the filing of this petition. This duplicate fee is unnecessary. Accordingly, the Office will deduct the $65.00 extension of time fee from the overpayment and refund the remainder of $745.00.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/06/11

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10928452 Patent No.: 7976823

CofC mailroom date: 08/17/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes in the Cross-Reference to Related Applications 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: Claimed priority was on the application data sheet filed 8/27/2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

1618

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Hinman et al.	:	
Application No. 10/928,479	:	DECISION ON PETITION
Filed: August 26, 2004		TO WITHDRAW FROM RECORD
Title: Link Systems And Articulation	:	
Mechanisms For Remote Manipulation Of	:	
Surgical Or Diagnostic Tools		

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 16, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on September 10, 2010 the power of attorney to Shay Glenn LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: PATENT DEPT
INTUITIVE SURGICAL OPERATIONS, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

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OFFICE OF PETITIONS

PATENT DEPT
INTUITIVE SURGICAL OPERATIONS, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

In re Patent No. 7,828,808	: DECISION ON REQUEST FOR
HINMAN et al.	: RECONSIDERATION OF
Issue Date: 11/09/2010	: PATENT TERM ADJUSTMENT
Application No. 10/928,479	: AND
Filed: 08/26/2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. NVRE706-302/US	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on May 5, 2010.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED** to the extent that the term of the above-identified patent is extended or adjusted by **one hundred seventy-two (172) days**.

On February 5, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b), stating that the initial patent term adjustment was 173 days. On May 5, 2010, patentee timely filed the present petition with the payment of the issue fee. Before a decision was reached on the merits of the petition, the above-identified application matured into U.S. Patent No. 7,828,808 on November 9, 2010. The patent issued with a revised Patent Term Adjustment of 118 days.[1] Patentee indicates that the patent is not subject to a terminal disclaimer.

Patentee states that the patent term adjustment should be corrected as follows:

- Removal of the period of adjustment of 9 days for Office delay pursuant to 37 CFR 1.702(a)(2);

[1] The initial determination of patent term adjustment was reduced by 120 days pursuant to 37 CFR 1.704(c)(10) for the filing of drawings on May 5, 2010, after the mailing of the notice of allowance. Additionally, a period of adjustment of 65 days was entered pursuant to 37 CFR 1.702(a)(4) for the Office's failure to issue the patent no later than four months after the date on which the issue fee was paid and all outstanding requirements were satisfied.

- Assessment of a period of reduction of 3 days for applicant delay pursuant to 37 CFR 1.704(c)(8) for the filing of an IDS on June 29, 2007;

- Assessment of a period of reduction of 31 days for applicant delay pursuant to 37 CFR 1.704(b) for the filing of a Request for Continued Examination (RCE) on January 7, 2008; and,

- Assessment of a period of reduction of 36 days for applicant delay pursuant to 37 CFR 1.704(c)(8) for the filing of an IDS on July 23, 2008.

A review of the application history confirms that patentee's characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the notice of allowance are correct.

Additionally, the record reveals that patentee is entitled to a period of adjustment pursuant to 37 CFR 1.702(b) for the Office's failure to issue the patent within three years of the actual filing date of the application. Patentee is reminded that 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. Thus, the over three year period begins on August 27, 2007, and ends on January 6, 2008, the day before the RCE was filed, and is 133 days. See 35 U.S.C. 154(b)(1)(B)(i).

In view of the above, the patent term adjustment is 172 days (410 days of A delay + 133 days of B delay – 0 days of overlap – 371 days of applicant delay).

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred seventy-two (172) 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 : 7,828,808 B2

DATED : Nov. 9, 2010 **DRAFT**

INVENTOR(S) : HINMAN 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 118 days

Delete the phrase "by 118 days" and insert – by 172 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/03/11

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10928485 Patent No.: 7854721

CofC mailroom date: 10/28/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

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

Comments: _____

_____

_____

_____

_____

Victoria P Campbell
Primary Examiner
AU 3703

_____ _____

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,535,676 B2
Ser. No. : 10/928,513
Inventor(s) : Jeffrey S. Lille
Issued : May 19, 2009

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
(703) 756-1583 or 1580

Merchant & Gould P.C.
Attn: David W. Lynch
P.O. box 2903
Minneapolis, MN 55402-0903

ej

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Patent of Lille	:	
Patent No. 7,535,676	:	
Issue Date: May 19, 2009	:	Letter
Application No. 10/928,513	:	
Filing Date: August 26, 2004	:	
Attorney Docket No. 15872.0090US01	:	

This is a letter in response to "Petition for Correction of Assignee under 3.81(b) filed June 24, 2004, which is being treated as 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), and
3. Include the fee set forth in 37 CFR 1.17(i).

Patentee has met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will issue the certificate of correction, previously requested on August 11, 2010, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

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MAR 01 2011

OFFICE OF PETITIONS

In re Application
Amy S. Lee
Application No. 10/928,806
Filed: August 27, 2004
Attorney Docket No. 06666-0040002
/USC 2920C

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed October 27, 2010. Applicant requests that the determination of patent term adjustment be corrected from 1072 days to 1144 days.

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

On July 27, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1072 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicants acknowledge the period of adjustment of 124 days for Office delay pursuant to 37 CFR 1.702(a)(1) and 1054 days for Office delay pursuant to 37 CFR 1.702(a)(2)

Applicants argue however that the Office erred in according both 1054 days of adjustment for Office delay in issuing a Board decision, pursuant to 37 CFR 1.703(e) and 18 days of adjustment for Office delay in issuing an Examiner's answer, pursuant to 37 CFR 1.703(a)(3) .

37 CFR 1.702 provides for a day-to-day adjustment of patent term adjustment for Office delay to the extent that the delays do not overlap. In this instance, the 18 day period of Office delay, begins on December 13, 2007 and ends on December 31, 2007. This period totally overlaps with the Office delay in issuing the Board of Patent Appeals and Interferences decision, which begins on June 19, 2007 and ends on May 7, 2010. Accordingly, only a period of adjustment of 1054 days should have been entered. The period of adjustment of 18 days is being removed.

[1] PALM records indicate that the issue fee was paid on October 27, 2010.

Applicant argues also that the filing of the response to the final Office Action on April 5, 2007, was, in fact, a complete and timely response to the December 21, 2006 final rejection under 37 C.F.R. § 1.704(b), as no further amendment was made subsequent to its filing and prior to the mailing of the January 27, 2010, Decision by the Board of Patent Appeals and Interferences, the Office improperly assessed 90 days Applicant delay, pursuant to 37 CFR § 1.704(b) for the Notice of Appeal which was filed on June 19, 2007.

As the amendment filed April 5, 2007 was not in compliance with 37 CFR § 1.113(c), the period for reply to the final rejection mailed December 21, 2006, continued to run. See Advisory Action mailed March 27, 2007. The proper reply, a Notice of Appeal, was not received in the Office until June 19, 2007. Accordingly, the period of reduction is 90 days, counting the number of days beginning on March 21, 2007, the day after the date that is three months after the date of mailing of the final rejection, and ending on June 19, 2007, the date the Notice of Appeal was filed. Thus, no correction is warranted.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE THOUSAND FIFTY-FOUR **(1054)** days.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Patent Term Adjustments

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

Application Number*: 10928806 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10928806

Application Filing Date	08/27/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1196
A Delays	142	PTO Manual Adjustment	-18
B Delays	0	Applicant Delay (APPL)	124
C Delays	1054	Total PTA (days)	1054

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
96	02/25/2011		P028	Adjustment of PTA Calculation by PTO		18	0
82	07/27/2010		MN/=.	Mail Notice of Allowance			0
81	07/23/2010		IREV	Issue Revision Completed			0
80	07/23/2010		DVER	Document Verification			0
79	07/23/2010		N/=.	Notice of Allowance Data Verification Completed			0
78	07/12/2010		EX.A	Examiner's Amendment Communication			0
77	07/12/2010		CNTA	Allowability Notice			0
76	07/08/2010		FWDX	Date Forwarded to Examiner			0
73	07/08/2010		ABN9	Disposal for a RCE / CPA / R129			0
75	07/06/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
74	07/06/2010		RCEX	Request for Continued Examination (RCE)			0
72	07/06/2010		BRCE	Workflow - Request for RCE - Begin			0
71	05/07/2010		ELC_RVW	Electronic Review			0
70	05/07/2010		EML_NTF	Email Notification			0
69	05/07/2010	06/19/2007	MAPDP	Mail BPAI Decision on Appeal - Affirmed in Part	1054		42
68	05/05/2010		APDP	BPAI Decision - Examiner Affirmed in Part			0
67	03/23/2009		EML_NTR	Email Notification			0
66	03/23/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
65	03/19/2009		APAS	Assignment of Appeal Number			0
64	03/04/2009		APWD	Appeal Awaiting BPAI Docketing			0
63	02/02/2009		EML_NTR	Email Notification			0
62	02/02/2009		APRD	Order Returning Undocketed Appeal to the Examiner			0
61	04/23/2008		APWD	Appeal Awaiting BPAI Docketing			0
60	02/13/2008		MRBNE	Mail Reply Brief Noted by Examiner			0
59	02/12/2008		RBNE	Reply Brief Noted by Examiner			0
58	02/02/2008		FWDX	Date Forwarded to Examiner			0
57	02/01/2008		APRB	Reply Brief Filed			0
56	01/22/2008		PACC	Exam. Ans. Review Complete			0
55	12/31/2007	12/13/2007	MAPEA	Mail Examiner's Answer	18		43
54	12/26/2007		APEA	Examiner's Answer to Appeal Brief			0
53	10/19/2007		APBR	Appeal Brief Review Complete			0
52	10/19/2007		FWDX	Date Forwarded to Examiner			0
51	10/05/2007		AP.B	Appeal Brief Filed			0
50	10/02/2007		APBD	Notice -- Defective Appeal Brief			0
49	10/02/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
48	09/25/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
47	09/18/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
46	09/14/2007		CTAV	Advisory Action (PTOL-303)			0
45	09/04/2007		APBR	Appeal Brief Review Complete			0
44	09/04/2007		FWDX	Date Forwarded to Examiner			0
43.1	08/13/2007		APBI	Defective / Incomplete Appeal Brief Filed			0
43	08/13/2007		AP.B	Appeal Brief Filed			0
42	06/19/2007	03/21/2007	N/AP	Notice of Appeal Filed		90	33
41	06/19/2007		XT/G	Request for Extension of Time - Granted			0
40	03/27/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
39	03/22/2007		CTAV	Advisory Action (PTOL-303)			0
38	03/16/2007		P574	Paralegal TD Accepted			0
35	03/15/2007		FWDX	Date Forwarded to Examiner			0
37	03/09/2007		DIST	Terminal Disclaimer Filed			0
36	03/09/2007		TDP	terminal disclaimer fee paid			0
34	03/09/2007		A.NE	Amendment after Final Rejection			0
33	12/21/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
31	11/27/2006		CTFR	Final Rejection			0
30	09/23/2006		FWDX	Date Forwarded to Examiner			0

32	09/19/2006		C614	New or Additional Drawing Filed			0
29	09/19/2006	08/16/2006	A...	Response after Non-Final Action		34	26
28	09/19/2006		XT/G	Request for Extension of Time - Granted			0
26	05/16/2006		MCTNF	Mail Non-Final Rejection			0
25	05/12/2006		CTNF	Non-Final Rejection			0
24	04/11/2006		FWDX	Date Forwarded to Examiner			0
23	04/03/2006		ELC.	Response to Election / Restriction Filed			0
22	04/03/2006		XT/G	Request for Extension of Time - Granted			0
20	02/28/2006	10/27/2005	MCTRS	Mail Restriction Requirement	124		-1
19	02/27/2006		CTRS	Restriction/Election Requirement			0
18	02/09/2006		DOCK	Case Docketed to Examiner in GAU			0
17	02/09/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	11/23/2005		LET.	Miscellaneous Incoming Letter			0
11	10/28/2004		WPET	Workflow incoming petition IFW			0
10	10/15/2004		WROIPE	Application Return from OIPE			0
9	10/15/2004		ROIPE	Application Return TO OIPE			0
7	10/15/2004		COMP	Application Is Now Complete			0
8	10/14/2004		OIPE	Application Dispatched from OIPE			0
6	10/06/2004		L194	Cleared by OIPE CSR			0
5	10/06/2004		CLSS	CASE CLASSIFIED BY OIPE			0
4	09/15/2004		SCAN	IFW Scan & PACR Auto Security Review			0
3	09/07/2004		CRFE	CRF Is Good Technically / Entered into Database			0
21	08/27/2004		IDSC	Information Disclosure Statement considered			0
16	08/27/2004		RCAP	Reference capture on IDS			0
15.7	08/27/2004		M844	Information Disclosure Statement (IDS) Filed			0
15	08/27/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
14	08/27/2004		A.PE	Preliminary Amendment			0
12	08/27/2004		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0

Export to: Excel

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.
10/928,894	08/27/2004	Jean Senellart	930009-2012	3919

20999 7590 08/03/2010
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER
PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
1786	

MAIL DATE	DELIVERY MODE
08/03/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

AUG - 3 2010

Mailed :	:	
In re Application of	:	DECISION ON
Proctor et al.	:	PETITION
Serial No. 10/928,894	:	
Filed: August 27, 2004		
For: ANTISTATIC TRANSFER BELT FOR NONWOVENS PROCESS		

This is a decision on Appellants' Petition under 37 CFR 1.181 filed June 10, 2010 requesting that a ground of rejection set forth in the answer be designated as a new ground of rejection.

A Final Office Action was mailed on September 18, 2009. An Appeal Brief was filed on September 18, 2009. On April 26, 2010, an Examiner's Answer was mailed. The Examiner's Answer included a new reference, a dictionary definition, cited on PTO-892. In response to Appellant's arguments, the Examiner introduced this new evidence to show the dictionary definition of "nonwoven fabric".

Appellant's in their Brief asserted that "nonwoven" as the term is used in the art, does not include the production of paper and as such it is incorrect to interpret "nonwoven" to include paper. A review of the record shows that the arguments set forth on this position was previously argued in Applicants' response on July 2, 2009. The Examiner in the response of July 2, 2009 took the position that the "definition of nonwoven" is an assembly of fibers". No additional evidence was provided by the Examiner to support his position at that time. The Examiner introduced the dictionary definition of "nonwovern fabric" in his Answer in response to the exact same argument Applicant previously set forth. The Examiner did not formally make it part of the rejection. It appears that the Examiner did not fully address the argument in the response of July 2, 2009. The addition of the definition in response to arguments in the Brief is a new ground of rejection.

If an appellant has clearly set forth an argument in a previous reply during prosecution of the application and the examiner has failed to address that argument, the examiner would not be permitted to add a new ground of rejection in the examiner's answer to respond to that argument but would be permitted to reopen prosecution, if appropriate.

DECISION

The petition is **GRANTED**.

The Examiner is required to send a corrected Examiner's Answer that identifies the rejection as a new ground of rejection and includes the approval of the TC Director or designee. The appellant may then file either a request that prosecution be reopened by filing a reply under 37 CFR 1.111, or a request that the appeal be maintained by filing a reply brief or resubmitting the previously-filed reply brief, within two months from the mailing of the corrected answer.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN B. HUTCHINS
1415 MAIN ST LOT 510
DUNEDIN, FL 34698-6238

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of	:	
John Barry Hutchins	:	
Application No. 10/928,998	:	ON PETITION
Filed: June 25, 2005	:	
Attorney Docket No.: 04-338586 9	:	

This is a decision in response to the petition to revive the above-identified application, filed August 4, 2011 under the provisions of 37 CFR 1.137(a).

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $270. It is noted that the present petition included a fee payment of $130. Before consideration on the merits of the petition can be given, the $140 balance of the petition fee must be submitted.

Petitioner is reminded that the requirements for a grantable petition under 37 CFR 1.137(a) must include: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By internet: EFS-Web[1]

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 10/929,370	Patent Number (if applicable):
First Named Inventor: Akihiro MIYAUCHI	Title of Invention: ELECTROLYTE MEMBRANE FOR FUEL CELLS, ...

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as “Office communication”) is outstanding on March 11, 2011.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
   a. The maintenance fee payment was required to have been paid after March 10, 2011.
   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).
   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /William I. Solomon/	Date May 5, 2011
Name (Print/Typed) William I. Solomon	Practitioner Registration Number 28,565

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of 1 forms are submitted.

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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P.O. Box 1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of :
Akihiro MIYAUCHI et al. :
Application No. 10/929,370 : DECISION ON PETITION
Filed: August 31, 2004 :
Attorney Docket No.: 500.44192X00 :

This is a decision on the request filed May 5, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 8, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1727 for re-mailing the Office action of December 8, 2010. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/929,381	08/31/2004	Ha-Jin Kim	P57186	6523

8439 7590 10/18/2010
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
GAMBETTA, KELLY M

ART UNIT	PAPER NUMBER
1715	

NOTIFICATION DATE	DELIVERY MODE
10/18/2010	ELECTRONIC

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

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

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

rebushnell@aol.com
mail@rebushnell.com
info@rebushnell.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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glm

OCT 18 2010

In re Application of KIM ET AL.	:	
Appl. No.: 10/929,381	:	**DECISION**
Filed: August 31, 2004	:	**ON**
For: CARBON-NANO TUBE STRUCTURE, METHOD OF MANUFACTURING THE SAME, AND FIELD EMITTER AND DISPLAY DEVICE EACH ADOPTING THE SAME	:	**PETITION**

This is a decision on the Petition Under 37 CFR 1.181 filed September 23, 2010 to vacate the Notice of Allowance mailed September 20, 2010 and enter the amendment filed September 23, 2010.

On March 23, 2010, the Board of Patent Appeals and Interferences issued a decision reversing the rejections of the examiner. On July 9, 2010, the examiner issued an action under Ex Parte Quayle, requiring that withdrawn claims 1-6 and 21-40 be cancelled or other appropriate action be taken. The Ex Parte Quayle action indicated that failure to take such action within one month of the mail date thereof would be construed as authorization to cancel the noted claims and pass the case to issue. This subsequently occurred on September 20, 2010, when the examiner mailed a Notice of Allowance canceling claims 1-6 and 21-40.

The instant petition was then timely filed on September 23, 2010 and is before the Director of Technology Center 1700 for consideration. The petition requests that the Notice of Allowance be stricken, a new Ex Parte Quayle action be mailed, and the amendment accompanying the petition be entered.

The petition is **DENIED-IN-PART** AND **DISMISSED-IN-PART** for the reasons below.

DECISION

A review of the file shows that a restriction requirement was made in the action of December 19, 2006, which was subsequently traversed by applicant and thereafter made final by the examiner. A petition requesting withdrawal of the restriction requirement was filed and later denied in a decision dated February 22, 2008. The above-noted appeal then followed. At issue is whether the examiner's treatment of the withdrawn claims in the Ex Parte Quayle action and Notice of Allowance was proper.

It is noted that MPEP 714.14, upon which applicant relies for the proposition that a two month period is required, is directed to situations in which applications are allowable save for objections on formal grounds (e.g., correction to the specification or the like). Such is not the case here. The obstacle to allowance was not an objection, but rather the presence of non-elected claims.

Treatment of non-elected claims after election with traverse is addressed in MPEP 821.01, which reads in part:

> When the application is otherwise in condition for allowance, and has not received a final action, the examiner should notify applicant of his or her options using form paragraph 8.03.
>
> ¶ 8.03 In Condition for Allowance, Non-elected Claims Withdrawn with Traverse
> This application is in condition for allowance except for the presence of claim [1] directed to an invention non-elected with traverse in the reply filed on [2]. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.
> The prosecution of this case is closed except for consideration of the above matter.
>
> Where a reply to a final action has otherwise placed the application in condition for allowance, the failure to cancel claims drawn to the nonelected invention(s) not eligible for rejoinder or to take appropriate action will be construed as authorization to cancel these claims by examiner's amendment and pass the application to issue after the expiration of the period for reply.

Applicant having prevailed in their appeal of the examiner's rejection, the application was in condition for allowance save for the presence of the non-elected claims. Comparing the Ex Parte Quayle action to MPEP 821.01, it is apparent that the examiner simply used form paragraph 8.03, which is a reasonable course of action given the circumstances. The examiner was following a routine Office procedure for dealing with non-elected claims. Further, 35 USC 133 provides the Office with authority to set shortened statutory periods of not less than 30 days, while 37 CFR 1.136(a)(1)(i) gives the Office authority to preclude extensions of time under 37 CFR 1.136(a) upon notice to the applicant. Thus the Ex Parte Quayle action of July 9, 2010 was proper.

Applicant further asserts that the Supervisory Patent Examiner indicated that a new Ex Parte Quayle action should be issued, but the written record does not support this assertion, there being no interview summary made of record by either party. As stated in 37 CFR 1.2, "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."

Regarding the examiner's amendment of September 20, 2010, applicant argues that it is improper for lacking either form paragraphs 13.02 or 13.02.01. While the MPEP indicates that one or the other "should" be used, this is not an absolute requirement. Paragraph 13.02 is simply a reminder of the provisions of 37 CFR 1.312. Applicant's failure to respond to the July 9, 2010 action was a constructive authorization to cancel the non-elected claims, rendering the examiner's amendment appropriate.

Applicant also appears to believe that there is a right to further prosecution in response "to the finding-of-fact and the conclusions of law made by the Board's Decision" but that is not the case. Prosecution after a Board decision is governed by 37 CFR 1.198, which states:

> 37 CFR 1.198. Reopening after a final decision of the Board of Patent Appeals and Interferences.
> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

Applicant is not entitled to entry of the proffered amendment as a matter of right. Having been filed after the mailing of a proper Notice of Allowance, treatment of the September 23, 2010 amendment is governed by 37 CFR 1.312. The examiner has not yet had the opportunity to so consider this amendment.

For the above reasons, applicant's request to vacate the Notice of Allowance and issue a new Ex Parte Quayle action is **DENIED**. Applicant's request to enter the September 23, 2010 amendment is **DISMISSED** as premature since the examiner has not yet considered the amendment.

The amendment of September 23, 2010 will be forwarded to the examiner for due consideration under 37 CFR 1.312.

Applicant is reminded that the time period for payment of the issue fee continues to run.

/SHARON GIBSON/
Director, Technology Center 1700

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

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

PTO/SB/131 (02-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: 2173-140	
Application Number: 10/929,491	Filing Date (or 371(b) or (f) Date): 08/31/2004
Patent Number: 7,660,605	Issue Date: 02/09/2010
First Named Inventor: Barry Steven HAZELL	
Title: METHOD AND SYSTEM FOR THE CONFIGURATION OF A MOBILE STATION BASEBAND CIRCUIT FOR AN ACOUSTIC ACCESSORY	

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 /Joseph L. Ulvr/	Date 08/05/2010
Name (Print/Typed) Joseph L. Ulvr	Registration Number 57696

***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.

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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United States Patent and Trademark Office
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MOFFAT-RIM
427 Laurier Avenue W.
Suite 1200
Ottawa, ON K1R 7Y2
CANADA

Mail Date: 08/12/2010

Applicant	: Barry Steven Hazell	: DECISION ON REQUEST FOR
Patent Number	: 7660605	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/929,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **489** 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application
Weidong Li
Application No. 10/929,855
Filed: August 30, 2004
Attorney Docket No. 15802US02

DECISION 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 October 22, 2010. Applicant requests that the determination of patent term adjustment be corrected from 611 to 1544 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

MAILED
MAR 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,440,370	:	
Issue Date: October 21, 2008	:	
Application No. 10/929,894	:	ON PETITION
Filed: August 30, 2004	:	
Attorney Docket No. 890050.502	:	

This is a decision on the petition filed February 9, 2009, 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

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Paper No.

Maschoff Gilmore & Israelsen
1441 W. Ute Blvd., Suite 100
Park City UT 84098-7633

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of :
Levinson :
Application No. 10/929,923 : DECISION ON PETITION
Filed: August 30, 2004 : PURSUANT TO
Attorney Docket No. : 37 C.F.R. § 1.137(B)
F1002.11082US02 :
Title: COMPUTER SYSTEM WITH :
MODULAR OPTICAL DEVICES :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed November 10, 2011, to revive the above-identified application.

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

A non-final Office action as mailed on April 21, 2011 and set an extendable three-month period for response. A response was received on September 21, 2011, along with a two-month extension of time so as to make timely the submission. The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-responsive Amendment (notice), mailed November 9, 2011, which did not extend the period for response that was set by the non-final Office action of April 21, 2011. No response was received and no additional extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 22, 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 the petition fee, an amendment, 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 November 10, 2011 can be processed in due course.

It is noted that Petitioner has filed a request concurrently with this petition, seeking the refund of the aforementioned two-month extension of time. The $490 cannot be refunded, as it was not paid by mistake or in excess.[2]

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

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

1 See Rule 1.137(d).
2 37 C.F.R. § 1.26(a) sets forth, *in pertinent part*: "[t]he Director may refund any fee paid by mistake or in excess of that required."
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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VISTA IP LAW GROUP, LLP
1885 LUNDY AVENUE
SUITE 108
SAN JOSE, CA 95131

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of	:	
David T. Hass, et al.	:	
Application No. 10/930,455	:	DECISION GRANTING PETITION
Filed: August 31, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RZMI-P0108-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 18, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2465 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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VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE, SUITE 108
SAN JOSE, CA 95131

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
David T. HASS	:	
Application No. 10/930,456	:	DECISION GRANTING PETITION
Filed: August 31, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **RZMI-P0120-US**	:	

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 October 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2465 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Patent No. : 7502481 B2
Application No.: 10/930493
Inventor(s) : Thomas A. Abrams et al.
Issued : 03/10/2009
Attorney Docket No.: MSFT-01089US0

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 the printed patent it is printed in accordance with the specification submitted on 08/31/2004. According to the Examiner, applicant was left a message to reply as to why such a deletion from the specification should be made. Applicant has not responded. Such a deletion would be considered new matter.

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

A certificate of correction will be issued for the remaining errors in your request

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 07/12/2011

Address: Scuqian Yan
Vierra Magen Marcus & DeNiro, LLP
575 Market Street, Suite 2500
San Francisco, California 94105

ts

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 07052011

DATE : 03/30/11

TO SPE OF : ART UNIT: 2614 Attn: CHIN VIVIAN C (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/930493 Patent No.: 7502481

C of C Mailroom date: 03/25/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

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

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

Comments: Applicant was left a message to reply as to why such a deletion from the specification should be made. Applicant has not responded. Such a deletion would be considered new matter.

Examiner: Douglas Suthers

Vivian Chin — SPE

2614 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111005

DATE : October 05, 2011

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7829298

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:

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Patent No. : 7,712,027 B2
Ser. No. : 10/930,677
Inventor(s) : Yuan et al.
Issued : May 4, 2010
Title : METHOD FOR DOCUMENT PAGE DELIVERY TO A MOBILE COMMUNICATION DEVICE
Docket No. : 9507.037.NPUS00
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 40l Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/930,941	09/01/2004	Yoshimasa Masuoka	500.44227X00	8047

20457 7590 11/24/2010
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER
ZECHER, CORDELIA P K

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
11/24/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Antonelli, Terry, Stout & Krause, LLP
1300 North Seventeenth Street
Suite 1800
Arlington Va 2209-3873

In re Application of:
Masuoka et al.
Appl. No.: 10/930941
Filed: September 1, 2004
For: Methods and Equipment for Verifying Propriety of System Management Policies to be Used in a Computer System

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for reconsideration of the suspension of prosecution under 37 CFR § 1.103(c) filed on July 1, 2010 and a request for withdrawal of the September 22, 2010 office action.

The petition is **GRANTED**.

The September 22, 2010 office action dismissed the petition for suspension as lacking the required fee. Petitioner's July 1st Amendment states that any shortage of fees can be charged to petitioner's deposit account. The office apparently missed this statement. The fee has been charged and the suspension has hereby been granted.

The period for suspension as requested by applicant runs from July 1, 2010 for three months expiring October 1, 2010.

As the application should have been suspended, the September 22, 2010 office action is hereby withdrawn.

As the period of suspension has now expired the application will be forwarded to the examiner to take the appropriate action.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Tod Swann whose telephone number is (571) 272-3612.

Tod Swann, SPRE/QAS
Technology Center 2400

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Commissioner for Patents
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Crawley et al.	:	
Application No. 10/931,025	:	DECISION ON PETITION
Filed: August 31, 2004	:	
Attorney Docket No. 44950-75882	:	

This is a decision on the 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 for failure to timely pay the issue and publication fees on or before November 30, 2010, as required by the Notice of Allowance and Fee(s) Due mailed August 31, 2010. Accordingly, the date of abandonment of this application is December 1, 2010. A Notice of Abandonment was mailed December 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00,(2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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.

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. 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: Kerrie A. Laba
400 W. Maple Road, Suite 350
Birmingham, Michigan 48009

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/10

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10931051 Patent No.: 7190527

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: _____

/Ricky Mack/ 2873

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

MAILED

MAY 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Edmonds, Paul	:	
Application No. 10/931,105	:	ON PETITION
Filed: August 31, 2004	:	
Attorney Docket No. INSG0014	:	

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 08 2011
OFFICE OF PETITIONS

BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

In re Patent No. 7,549,043	: DECISION ON APPLICATION FOR
Issued: June 16, 2009	: PATENT TERM ADJUSTMENT and
Application No. 10/931,109	: NOTICE OF INTENT TO ISSUE
Filed: September 1, 2004	: CERTIFICATE OF CORRECTION
Dkt. No.: 13210-73	:

This is a decision on the petition filed on July 3, 2009, which is being treated as a timely filed 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 1134 days.

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

The above-identified application matured into U.S. Patent No. 7,549,043 on July 3, 2009. The patent issued with a patent term adjustment of 897 days. Patentees assert that the patent is entitled to an overall patent term adjustment of 1134 days.

The patent is entitled to an overall adjustment of 1096 days.

The period of adjustment pursuant to 37 CFR 1.702(a) is 903 days, from November 2, 2005 to April 22, 2008.

The period of adjustment pursuant to 37 CFR 1.702(b) is 471 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period began on September 2, 2007 and ended December 15, 2008, the day before the RCE was filed See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 471 days.

To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. See, 37 CFR 1.703(f).

The period of overlap totals 234 days, from September 2, 2007 to April 22, 2008.

As for the period of applicant delay, patentees have acknowledged the period of six days pursuant to 37 CFR 1.704(c)(10) assessed in connection with the information disclosure statement (IDS) filed March 12, 2009.

However, further review of the record reveals that the adjustment is subject to a further reduction of 38 days pursuant to 37 CFR 1.704(c)(8) in connection with the IDS filed August 25, 2008. The reduction commenced July 19, 2008, the day after the date that the initial reply was filed, and ended August 25, 2008, the date that the supplemental reply (IDS) was filed.

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 1096 days (903 days pursuant to 37 CFR 1.702(a) + 471 days pursuant to 37 CFR 1.702(b) – 234 overlapping days pursuant to 37 CFR 1.703(f) - 44 days pursuant to 37 CFR 1.704).

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

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

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1096 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,549,043

DATED : June 16, 2009 **DRAFT**

INVENTOR(S) : Adams, 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 897 days

Delete the phrase "by 897 days" and insert – by 1096 days--

PTO/SB/131 (02-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1965, 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:	08746-0056001		
Application Number:	10/931,178	Filing Date (or 371(b) or (f) Date):	August 30, 2004
Patent Number:	7,660,366	Issue Date:	February 9, 2010
First Named Inventor:	Martin Raptis Picco		
Title:	Message Synchronization Over A Stochastic 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: /Alex Chan/	Date: August 2, 2010
Name: (Print/Type) Alex Chan	Registration Number: 52,713

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.

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

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

Mail Date: 08/11/2010

Applicant	: Martin Raptis Picco	: DECISION ON REQUEST FOR
Patent Number	: 7660366	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/931,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1563** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Locke Lord Bissell & Liddell LLP
Attn: Michael Ritchie, Docketing
2200 Ross Avenue
Suite # 2200
DALLAS TX 75201-6776

MAILED
JUN 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Andrei P. Averbuch	:	
Application No. 10/931,389	:	DECISION ON PETITION
Filed: September 1, 2004	:	
Attorney Docket No. Andy-pt001	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 1, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 2, 2008. The Notice of Abandonment was mailed May 12, 2008.

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

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

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

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

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

This application is being referred to Technology Center AU 2623 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date February 15, 2011

Patent No. :7811812
Ser. No. :10931441
Inventor(s) : Dubensky et al.
Issued :October 12, 2010
Title :RECOMBINANT ALPHAVIRUS-BASED VECTORS WITH REDUCED INHIBITION
:OF CELLULAR MACROMOLECULAR SYNTHESIS

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer) Support 1-866-217-9197 571-272-4100

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

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Novartis Vaccines And Diagnostics Inc.
Intellectual Property – X100B
P.O. Box 8097
Emeryville CA 94662+8097

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

MAILED

FEB 27 2012

OFFICE OF PETITIONS

In re Application of	:	
CHIPMAN, Timothy W.	:	
Application No. 10/931,539	:	DECISION ON PETITION
Filed: September 01, 2004	:	TO WITHDRAW
Attorney Docket No. **021404-0019P**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2012.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: **(1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened. No address was indicated on the request.**

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Ling Tony CHEN, et *al.*	:	
Application No. 10/931,884	:	DECISION GRANTING PETITION
Filed: September 1, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MSFT-4122/309219.02**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 10, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 19, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2437 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,068,894	:	
Issued: June 27, 2006	:	
Application No. 10/931,931	:	ON PETITION
Filed: September 1, 2004	:	
Attorney Docket No. 64992/P003US/10410886	:	

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

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

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

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Frank H. Schaedlich et al.	:	
Patent No. 7,618,581	:	
Application No. 10/931,987	:	NOTICE
Filed: September 2, 2004	:	
Attorney Docket No. **7783-12**	:	
	:	

This is a notice regarding your request filed December 24, 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 patent must be paid at the large entity rate.

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

JoAnne Burke
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 PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/932,113 : ON PETITION
Filed: September 2, 2004 :
Attorney Docket No. SEMICONDUCTOR DEVICE AND A METHOD OF MANUFACTURING THE SAME

This is a decision on the petition, filed February 25, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 10, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	DECISION ON PETITION
Application Number: 10/932175	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: 09/01/2004	:	
Attorney Docket Number:	:	
15648US02		

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed on April 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional application set forth in the petition.

The petition is **DISMISSED**.

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

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

The petition fails to comply with items (1) and (3) above.

The reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification). Specifically, the present petition does not include an amendment to the specification contained on a separate paper (*See* 37 CFR 1.121(h)), nor is the amendment in compliance with 37 CFR 1.121(b).

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and an ADS or an amendment to the first sentence of the specification complying with 37 CFR 1.121 and stating the relationship of the prior-filed application to the instant application is required.

Furthermore, the statement of unintentional delay does not track the language of 37 CFR 1.78(a)(iii), which requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. Any renewed petition should include a statement of unintentional delay in accordance with 37 CFR 1.78(a)(iii).

The fee required by § 1.17(t) will be charged to counsel's deposit account, as authorized in the transmittal letter filed on April 14, 2010.

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

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

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

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

A reply may also be filed via EFS-Web.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christopher Bottoroff
Supervisor
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of	:
Chen et al.	: DECISION ON PETITIONS
Application Number: 10/932,175	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Filing or 371(c) Date: 09/01/2004	: AND DECISION ON PETITION
Attorney Docket Number: 15648US02	: UNDER 37 CFR 1.137(b)

This is a decision on the petitions filed on April 4, 2011, which are treated as (a) renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently-filed amendment and, (b) a petition under 37 CFR 1.137(b) to revive the above-identified application.

The petitions are **GRANTED**.

PETITION UNDER 37 CFR 1.137(b).

The application became abandoned on December 22, 2010, for failure to timely file a reply to the final Office action mailed September 21, 2010, which set a three (3)-month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on March 25, 2011.

Receipt of the Request for Continued Examination (RCE) and submission under 37 CFR 1.114 are acknowledged.

PETITION UNDER 37 CFR 1.78(a)(3) & (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 information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional or international applications claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional applications.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120, 365(c), and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 2192 for consideration by the examiner of the claim under 35 U.S.C. §§120 and 119(e) of the prior-filed nonprovisional and provisional applications.

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
10/932,175	09/01/2004	2192	633	15648US02	26	6

CONFIRMATION NO. 8386

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000047605665

Date Mailed: 05/17/2011

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)

Shao-Chun Chen, Aliso Viejo, CA;
Young Hee Choi, San Diego, CA;
James P. Gustafson, Irvine, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/500,364 09/03/2003
and is a CIP of 10/756,103 01/13/2004 PAT 7,725,889
which claims benefit of 60/439,673 01/13/2003

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

If Required, Foreign Filing License Granted: 10/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/932,175**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Tri-phase boot process in electronic devices

Preliminary Class

717

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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P.O. BOX 710
LINDEN NJ 07036

MAILED
SEP 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Caprotti et al.	:	
Application No. 10/932,462	:	ON PETITION
Filed: September 1, 2004	:	
Attorney Docket No. 2003M010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1771 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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www.uspto.gov

BERNARD S HOFFMAN
10 COLGATE ST
PORT JEFFERSON STATION NY 11776

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Alan Estergomy	:	
Application No. 10/932,509	:	ON PETITION
Filed: September 1, 2004	:	
Title: Drive Train	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed July 6, 2010.

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed November 30, 2007. This Notice set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on March 1, 2008. The Office mailed a Notice of Abandonment on July 30, 2008. Applicant filed a petition to revive under 37 CFR 1.137(b) on April 19, 2010. However, the petition was dismissed in a decision mailed on June 21, 2010. The decision explained that because the application had been abandoned for an extended period of time, applicant needed to account for the delay in filing the petition.

On renewed petition, applicant has satisfactorily accounted for the delay in filing the petition to revive on April 19, 2010. Specifically, petitioner states that he was not notified of the abandonment of the application by his prior attorney.

The application is being forwarded to Group Art Unit 3611 for consideration of the Amendment filed April 19, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/932,608	VANN, CHARLES S.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				287.1	435	283.1	287.2	288.4					
INTERNATIONAL CLASSIFICATION					422	68.1	400	407					
C	1	2	M	3/00									
C	1	2	M	1/00									
G	0	1	N	15/06									
G	0	1	N	33/00									
G	0	1	N	31/22									

(Assistant Examiner) (Date)		Total Claims Allowed: 40
(Legal Instruments Examiner) (Date)	/Frank W Lu/ 3/8/2012 (Primary Examiner) (Date)	O.G. Print Claim(s): 1 — O.G. Print Fig.: 6A

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

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)
6948807	2005-09-27	10932691	2004-09-02	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

Under 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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In re Patent No. 6948807
Issue Date: September 27,2005
Application No. 10932691
Filed: September 2,2004
Attorney Docket No. ELTE 03007 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.

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JUN 20 2011
OFFICE OF PETITIONS

NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO IL 60606

Patent No. 7,634,352	:	
Issue Date: December 15, 2009	:	
Application No. 10/932,735	:	ON PETITION
Filed: September 2, 2004	:	
Attorney Docket No. 600754-8UI	:	

This is a decision on the petition filed January 19, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

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SEP 08 2010

OFFICE OF PETITIONS

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

In re Patent No. 7,473,227	:	DECISION ON REQUEST
Hsu et al.	:	FOR
Issue Date: January 6, 2009	:	RECONSIDERATION OF
Application No. 10/932,923	:	PATENT TERM ADJUSTMENT
Filed: September 2, 2004	:	
Atty Docket No. 117163.00120	:	

This is a decision on the petition filed on March 3, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and sixty-one (961) days.

The petition is **DISMISSED AS UNTIMELY.**

This patent issued on January 6, 2009 with a patent term adjustment of 634 days. A "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)" was filed on February 27, 2009, and was dismissed via the mailing of a decision on April 24, 2009.

The 180-day anniversary of the patent grant fell on July 5, 2009.

On March 3, 2010, this "RENEWAL REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" was filed.

On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a

PTA determination under 37 CFR sec. 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010) (notice). Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept any requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. § 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to consider a patentee's initial request for PTA determination to conclude its PTA determination."

The $200.00 fee set forth in 37 CFR 1.18(e) has not been received, and is not required.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

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Louis J. Wille
Bristol-Myers Squibb Company
Patent Department
PO Box 4000
Princeton, NJ 08543-4000

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,432,271	:
Ngu etal.	: DECISION UPON REMAND AND
Issue Date: October 7, 2008	: RECONSIDERATION OF
Application No. 10/932,981	: PATENT TERM ADJUSTMENT
Filed: September 1, 2004	: AND NOTICE OF INTENT
Attorney Docket No. HA0813NP	: TO ISSUE CERTIFICATE OF
Title: Pyrazoyl Inhibitors of	: CORRECTION
15-Lipoxygenase	:

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred forty-six (846) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred forty-six (846) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at 571-272-7757.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction
Copy of Adjusted PTA Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,432,271

DATED : **October 7,.2008** **DRAFT**

INVENTOR(S) : Ngu 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 523 days

Delete the phrase "by 523 days" and insert – by 846 days--

Day : Tuesday
Date: 7/27/2010

PALM INTRANET

Time: 08:09:04

PTA Calculations for Application: 10/932981			
Application Filing Date:	09/01/2004	PTO Delay (PTO):	523
Issue Date of Patent:	10/07/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	846
PTO Delay Adjustment:	323		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	07/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	323		
46.5	09/17/2008	PTA 36 MONTHS			
46	10/07/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
45	09/09/2008	EXPORT TO FINAL DATA CAPTURE			
44	09/05/2008	FINISHED INITIAL DATA CAPTURE			
43	09/05/2008	DISPATCH TO FDC			
42	08/21/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
41	08/20/2008	ISSUE FEE PAYMENT VERIFIED			
40	08/20/2008	ISSUE FEE PAYMENT RECEIVED			
39	06/20/2008	EXPORT TO INITIAL DATA CAPTURE			
38	06/21/2008	ELECTRONIC REVIEW			
36	06/19/2008	MAIL NOTICE OF ALLOWANCE	68		29
35	06/12/2008	DOCUMENT VERIFICATION			
34	06/12/2008	ISSUE REVISION COMPLETED			
33	06/12/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	06/12/2008	CASE DOCKETED TO EXAMINER IN GAU			
31	06/06/2008	NOTICE OF ALLOWABILITY			
30	06/02/2008	DATE FORWARDED TO EXAMINER			
29	12/12/2007	RESPONSE AFTER EX PARTE QUAYLE ACTION			
28	11/21/2007	ELECTRONIC REVIEW			
27	11/20/2007	EMAIL NOTIFICATION			
26	11/20/2007	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)	11		23
25	11/15/2007	EX PARTE QUAYLE ACTION			
24	11/15/2007	DATE FORWARDED TO EXAMINER			

23	07/09/2007	RESPONSE AFTER NON-FINAL ACTION			
22	04/11/2007	MAIL NON-FINAL REJECTION			
21	04/04/2007	NON-FINAL REJECTION			
20	01/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	02/23/2007	DATE FORWARDED TO EXAMINER			
18	02/20/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
17	01/19/2007	MAIL RESTRICTION REQUIREMENT	444		-1
16	01/10/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
15	02/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	02/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
13.7	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	12/10/2004	APPLICATION RETURN FROM OIPE			
11	12/10/2004	APPLICATION RETURN TO OIPE			
10	12/10/2004	APPLICATION DISPATCHED FROM OIPE			
9	12/10/2004	APPLICATION IS NOW COMPLETE			
8	12/02/2004	ADDITIONAL APPLICATION FILING FEES			
7	12/02/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	11/01/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/12/2004	CLEARED BY OIPE CSR			
3	10/12/2004	CASE CLASSIFIED BY OIPE			
2	09/20/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/01/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of :
Mirzafer K. Abatchev et al :
Application No. 10/932,993 :
Filed: September 1, 2004 :
Attorney Docket No. MICRON.293A

ON PETITION

This is a decision on the petition, filed September 7, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 24, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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SEP 17 2010

OFFICE OF PETITIONS

BALLARD SPAHR, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re Application of
Joel E. Horne, et al.
Application No. 10/932,997
Filed: September 2, 2004
Attorney Docket No. 05137.0001U1

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

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

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

Petitioner should note that upon the acceptance of this petition will result in more that one attorney or agent, applicant or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. Accordingly, when the acceptance of such papers results in an attorney/agent and at least one applicant/owner prosecuting the application, the correspondence will be mailed to the attorney or agent of record unless all parties agree to a different correspondence address. Upon accepting papers appointing and/or revoking a power of attorney that are signed by less than all of the applicants or owners, the Office will indicate to applicants who must sign subsequent replies.

The following are examples of who must sign replies when there is more than one person responsible for prosecuting the application:

(A) If coinventor A has given a power of attorney to a patent practitioner and co-inventor B has not, replies must be signed by the patent practitioner of A and by the co-inventor B.

(B) If co-inventors A and B have each appointed their own patent practitioner, replies must be signed by both patent practitioner.

Petitioner must also note that the Office will not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed address.

Upon the granting of this petition each attorney/agent and applicant/owner must sign all papers being filed with the Office and each practitioner signing subsequent papers must indicate whom he or she represents.

This request was signed by Richard P. Sutton.

The correspondence address of record remains unchanged.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on November 23, 2004 does not include one of the above two options.

There is an outstanding Office action mailed July 21, 2010 that requires a reply from the applicant.

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

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

cc: RICHARD P. SUTTON
528 SOUTH 6TH STREET
MURRAY, KY 42071

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June Kessler
208 Wooster St
New Haven CT 06511

MAILED
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OFFICE OF PETITIONS

In re Application of	:	
June Kessler	:	
Application No. 10/933,579	:	DECISION ON PETITION
Filed: September 3, 2004	:	
Attorney Docket No. P30894US00/23145.002	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 13, 2010, which set a shortened statutory period for reply of one (1) month or (30) thirty days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2010. A Notice of Abandonment was mailed on July 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. 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 3677 for appropriate action by the Examiner in the normal course of business on the reply received January 11, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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GRANT ANDERSON, LLP
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OCT 03 2011

OFFICE OF PETITIONS

In re Application of :
Martin Beaulieu, et. al. :
Application No. 10/933,611 : ON PETITION
Filed: September 2, 2004 :
Attorney Docket No. SEQ-2069-UT :

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2011, to revive the above-identified application.

The application became abandoned for failure to file a reply to the final Office action mailed on May 12, 2010. A Notice of Abandonment was mailed August 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) along with the $465 fee; (2) the petition fee of $930; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1637 for processing of the RCE.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose CA 95131

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JUL 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Bipul Sinha et al.	:	
Application No. 10/933,828	:	DECISION ON PETITION
Filed: September 03, 2004	:	
Attorney Docket No. OID 2003-069-02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 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 June 06, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 04, 2011. Accordingly, the date of abandonment of this application is June 07, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been unintentionally delayed.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Li :
Application No. 10/933,984 :
Filed: September 3, 2004 :
Attorney Docket No. 15805US02 :
For: DIGITAL BASEBAND :
TRANSMITTER WITH DIGITAL RF/IF :
SUPPORT IN GSM/GPRS/EDGE :
COMPLIANT HANDSETS :

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 December 7, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from six hundres eighty-three (683) days to nine hundred twenty-one (921) days.

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

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

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

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the

---

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

notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On September 22, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 683 days. The instant application for patent term adjustment was timely filed on December 7, 2011.

Applicant disputes the 2 day reduction for the submission of the response on June 6, 2011. Applicant states that as intended by 35 U.S.C. §54(b)(2)(c)(ii), the three-month date should be calculated from June 6, 2011, instead of June 4, 2011 as June 4, 2011 falls on a weekend. As such the response submitted on June 6, 2011 should be calculated as 0 days, not 2 days. The 2 day reduction will be removed.

Applicants' delay as of the mailing of the Notice of Allowance total is 31 days.

Office delay as of the mailing of the Notice of Allowance total is 716 days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is six hundred eighty-fifty **(685)** days.

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

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

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

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

Application Number*: 10933984 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10933984

Application Filing Date	09/03/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	716
A Delays	716	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	33
C Delays	0	Total PTA (days)	685

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
80	12/14/2011		P028	Adjustment of PTA Calculation by PTO	2		0
70	09/22/2011		MN/=.	Mail Notice of Allowance			0
69	09/15/2011		OAR	Office Action Review			0
68	09/15/2011		OAR	Office Action Review			0
67	09/15/2011		OAR	Office Action Review			0
66	09/15/2011		IREV	Issue Revision Completed			0
65	09/15/2011		DVER	Document Verification			0
64	09/15/2011		N/=.	Notice of Allowance Data Verification Completed			0
63	09/15/2011		EX.R	Reasons for Allowance			0
62	09/15/2011		EX.A	Examiner's Amendment Communication			0
61	09/15/2011		CNTA	Allowability Notice			0
59	06/14/2011		FWDX	Date Forwarded to Examiner			0
58	06/06/2011	06/04/2011	A...	Response after Non-Final Action		2	57
57	03/04/2011	02/12/2011	MCTNF	Mail Non-Final Rejection	20		51
56	02/25/2011		CTNF	Non-Final Rejection			0
54	12/22/2010		MAPCR	Mail Appeals conf. Reopen Prosec.			0
55	12/21/2010		FWDX	Date Forwarded to Examiner			0
53	12/20/2010		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
52	10/12/2010		AP.C	Request for Pre-Appeal Conference Filed			0
51	10/12/2010		N/AP	Notice of Appeal Filed			0
50	07/16/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
49	07/15/2010		CTFR	Final Rejection			0
48	05/04/2010		FWDX	Date Forwarded to Examiner			0
47	04/27/2010		A...	Response after Non-Final Action			0
46	01/29/2010	01/10/2010	MCTNF	Mail Non-Final Rejection	19		43
45	01/28/2010		CTNF	Non-Final Rejection			0
44	09/25/2009		FWDX	Date Forwarded to Examiner			0
43	09/10/2009		A...	Response after Non-Final Action			0
42	06/10/2009		MCTNF	Mail Non-Final Rejection			0
41	06/08/2009		CTNF	Non-Final Rejection			0
40	02/27/2009		FWDX	Date Forwarded to Examiner			0
39	02/11/2009		A...	Response after Non-Final Action			0
37	11/12/2008	07/22/2008	MCTNF	Mail Non-Final Rejection			31
36	11/10/2008		CTNF	Non-Final Rejection			0
34	09/24/2008		MAPCR	Mail Appeals conf. Reopen Prosec.			0
35	09/23/2008		FWDX	Date Forwarded to Examiner			0
33	09/23/2008		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
32	07/22/2008		AP.C	Request for Pre-Appeal Conference Filed			0
31	07/22/2008		N/AP	Notice of Appeal Filed			0
30	04/30/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
29	04/28/2008		CTFR	Final Rejection			0
28	02/20/2008		FWDX	Date Forwarded to Examiner			0
27	01/11/2008	12/11/2007	A...	Response after Non-Final Action		31	24
26	01/11/2008		XT/G	Request for Extension of Time - Granted			0
25	01/11/2008		XT/G	Request for Extension of Time - Granted			0
24	09/11/2007	11/03/2005	MCTNF	Mail Non-Final Rejection	677		0.5
23	09/04/2007		CTNF	Non-Final Rejection			0
19	08/07/2007		DOCK	Case Docketed to Examiner in GAU			0
18	06/25/2007		DOCK	Case Docketed to Examiner in GAU			0
22	01/24/2007		IDSC	Information Disclosure Statement considered			0
17.7	01/24/2007		M844	Information Disclosure Statement (IDS) Filed			0
17	01/24/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
16	03/23/2006		DOCK	Case Docketed to Examiner in GAU			0
15	03/22/2006		DOCK	Case Docketed to Examiner in GAU			0
14	10/12/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	10/12/2005		DOCK	Case Docketed to Examiner in GAU			0

10	02/26/2005	TI1050	Transfer Inquiry to GAU	0
38	12/14/2004	CFRPT	Corrected filing receipt	0
12	12/14/2004	A.PE	Preliminary Amendment	0
11	12/13/2004	A.PE	Preliminary Amendment	0
9	11/02/2004	WROIPE	Application Return from OIPE	0
8	11/02/2004	ROIPE	Application Return TO OIPE	0
7	11/02/2004	OIPE	Application Dispatched from OIPE	0
6	11/02/2004	COMP	Application Is Now Complete	0
5	10/21/2004	L128	Cleared by L&R (LARS)	0
4	10/13/2004	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	10/13/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	09/21/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	09/03/2004	IEXX	Initial Exam Team nn	0
0.5	09/03/2004	EFILE	Filing date	0

Export to: Excel

UNITED STATES 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

NOV 18 2011

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of Ordentlich et al. Application No. 10/934,221 Filed: September 2, 2004 Attorney Docket No.: 200314780-1 Title: IDENTIFICATION OF DIFFERENT REGIONS OF BIOPOLYMER SEQUENCES USING A DENOISER	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181

This is a decision on the petition filed June 28, 2010, pursuant to 37 C.F.R. § 1.181(a), requesting that the Office enter a preveniently-filed amendment.

BACKGROUND

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 30, 2009. On September 3, 2009, an amendment was submitted to the Office, along with an authorization to charge any required extensions of time pursuant to 37 C.F.R. §1.136(a) to Deposit Account No. 08-2025. An advisory action was mailed on March 24, 2010, which indicated that the amendments to the claims would not be entered as they, *inter alia*, "raise new issues that would require further consideration and/or search...[t]hey raise the issue of new matter...[s]upport for applicant's amendment was not found in the instant specification or pointed to by applicant and thus constitutes new matter..." and the amendment "does NOT (emphasis included) place the application in condition for allowance."

Accordingly, the above-identified application became abandoned on August 31, 2009. A Notice of Abandonment was mailed on April 6, 2010.

With this petition, Petitioner seeks the entry of the amendment of September 3, 2009.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.116 sets forth, *in pertinent part*:

> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title):
>
> (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;
>
> (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or
>
> (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

37 C.F.R. § 1.181(f) sets forth, *in pertinent part*:

> 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. § 41.33(a) sets forth, *in toto*:

> Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title.

ANALYSIS

37 C.F.R. § 1.181(f) indicates that any petition submitted under this portion of the C.F.R. that is not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. With the mailing of the advisory action of March 24, 2010, Petitioner was informed that the amendment of September 3, 2009 would not be entered. The present petition was submitted over two months after the mailing of the advisory action.

As such, this petition under 37 C.F.R. §1.181 is **DISMISSED** as untimely.

It is noted in passing that even if this petition were to be accepted as timely filed, it could not be granted.

The electronic file has been reviewed, and Petitioner's argument is not persuasive for the following reason: the entry of the amendment is prohibited by 37 C.F.R. § 41.33(a). A discussion follows.

The amendment of September 3, 2009 was submitted after the submission of a notice of appeal, and prior to the submission of an appeal brief (due to the fact that no appeal brief was filed). As such, 37 C.F.R. § 41.33(a) is applicable. This portion of the CFR, reproduced above, indicates that any amendment submitted during this timeframe "may be admitted as provided in § 1.116 of this title."

37 C.F.R. § 1.116(b) requires the amendment to

- cancel claims or comply with any requirement of form expressly set forth in a previous Office action;
- present rejected claims in better form for consideration on appeal; or
- if an amendment touches the merits of the application, it may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

The amendment of September 3, 2009 did not meet the requirements of 37 C.F.R. § 1.116. As set forth in the advisory action of March 24, 2010, the Examiner found that it raised new issues and introduced new matter.

It follows that the amendment of September 3, 2009 cannot be entered, pursuant to the discussion above.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Pursuant to 37 C.F.R. § 1.181." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b). Unless Petitioner

believes that he can successfully establish that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300: please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5] All other inquiries concerning examination procedures should be directed to the Technology Center.

Anthony Knight
Director
Office of Petitions

cc: Robert W. Bergstrom
Olympic Patent Works PLLC
P.O. Box 4277
Seattle, WA 98194-0277

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/27/10

TO SPE OF : ART UNIT 3718

SUBJECT : Request for Certificate of Correction for Appl. No.: 10934258 Patent No.: 7837545

CofC mailroom date:
12/15/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

/David L Lewis/ 3714

SPE **Art Unit**

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7082048	2006-07-25	10934312	2004-09-03	ZTI5435.03A1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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

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	/Scott Yoo/	Date (YYYY-MM-DD)	2010-09-20
Name	SCOTT YOO, CEO, ZMOS TECHNOLOGY, INC. (assignee)		
Enter Reel and Frame Number		Remove	
Reel Number	015486	Frame Number	0387
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7082048
Issue Date: July 25,2006
Application No. 10934312
Filed: September 3,2004
Attorney Docket No. ZTI5435.03A1

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

This is a decision on the electronic petition, filed September 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

OK TO ENTER: /SH/

/SH/ 03/24/2012

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
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000 E

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Willars, et al.

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

On the Face Page, in Field (57), under "ABSTRACT", in Column 1, Line 19, delete "advances" and insert - - advance - -, therefor.

In Column 3, Line 36, delete "UTC" and insert - - UCT - -, therefor.

In Column 5, Line 47, delete "sector" and insert - - sectors - -, therefor.

In Column 9, Line 55, delete "T_f=O_{f12}." and insert - - T_f-O_{f12}. - -, therefor.

In Column 11, Line 13, delete "and" and insert - - an - -, therefor.

In Column 13, Line 25, after "mobile station" insert - - MS - -.

In Column 15, Line 5, delete "a an" and insert - - an - -, therefor.

In Column 15, Line 6, delete "t_α" and insert - - t_a - -, therefor.

In Column 15, Line 8, delete "($t_{\alpha 1}$" and insert - - (t_{a1} - -, therefor.

In Column 15, Line 9, delete "($t_{\alpha 2}$" and insert - - (t_{a2} - -, therefor.

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

6300 Legacy, MS EVR 1-C-11
Plano, TX 75024
972-583-8656

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.

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
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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

In Column 15, Line 24, delete "D_2i.e." and insert - - D_2 i.e. - -, therefor.

In Column 15, Line 55, delete "delivery" and insert - - diversity - -, therefor.

In Column 16, Line 38, delete "area" and insert - - are - -, therefor.

In Column 16, Line 66, in Claim 1, delete "responsive" and insert - - respective - -, therefor.

In Column 17, Line 32, in Claim 5, delete "(t_α)" and insert - - (t_a) - -, therefor.

In Column 19, Line 14, in Claim 12, delete "responsive" and insert - - respective - -, therefor.

In Column 19, Line 57, in Claim 19, delete "communication" and insert - - communicate - -, therefor.

In Column 20, Line 52, in Claim 19, delete "channels" and insert - - channel - -, therefor.

In Column 20, Line 60, in Claim 19, delete "responsive" and insert - - respective - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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

In Column 21, Line 59, in Claim 22, delete "DCH1," and insert - - (DCH1, - -, therefor.

In Column 22, Line 30, in Claim 27, delete "D_1," and insert - - (D_1, - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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

In Column 22, Line 55 to column 23, Line 28, in Claim 33, delete "A method to attain..... dedicated channel." and insert - - *A method to attain simultaneous transmission in a cellular radio communication system comprising a central node, a first and a second asynchronous base station, said first and second base stations being connected to said central node, and a mobile station which is communicating information in data frames of a predetermined duration with said first base station, said second base station to be added for communication in soft handover, the method comprising:*
a) the mobile station measuring and reporting to said central node a frame offset value between a current downlink channel of the mobile station and a target cell's common downlink control channel;
b)said central node, based on this information, calculating a timing advance value needed in the target cell between a dedicated channel frame structure and a common control channel frame structure, and informing the second base station of this, thus providing aligned transmission timings between the dedicated channel frame structure in the target cell and a home cell;
c) maintaining a local frame counter state per dedicated channel connection;
d) initializing the local frame counter for the dedicated channel in the target cell such that a frame of the target cell frame structure is assigned the same dedicated channel data frame number as the corresponding aligned frame of the home cell; and

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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:

e) numbering the data frames to be transmitted on the dedicated channel of the target cell and the home cell such that the data frame with dedicated channel data frame number is sent to both the first and the second base station from said central node, each of said first and second base stations starting transmission of the data frames with the dedicated channel data frame number on the target cell dedicated channel and home cell dedicated channel. - -, therefor.

In Column 23, Lines 29-45, in Claim 34, delete "The method according to…….downlink channel" and insert - - *The method according to claim 33, further comprising:*
measuring the frame offset value between said current downlink channel of the mobile station and the common downlink control channel, and based on the measuring,
calculating a timing advance value for a second downlink channel,
setting a second downlink channel offset value for the second downlink channel added to said timing advance value for said second downlink channel, and
minimizing the difference of the first and second downlink channel offset values, thereby granting that a current data frame number of the first downlink channel is aligned with a corresponding data frame number of said second downlink channel. - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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

In Column 23, Lines 45-53, in Claim 35, delete "The method according to ……..according to step b)." and insert - - *The method according to claim 34, wherein:*
said second downlink channel offset value is calculated according to the sum of the second common downlink control channel offset value, the timing advance value of the second downlink channel and a multiple of the frame time, and that the multiple is chosen so that it minimizes the difference between the first and second downlink channel offsets according to step b). - -, therefor.

In Column 23, Lines 54-56, in Claim 36, delete "The method according to …..central node." and insert - - *The method according to claim 34, wherein: said measuring according to step a) is done by the mobile station upon instruction from said central node.* - -, therefor.

In Column 24, Lines 1-5, in Claim 37, delete "The method according to …..step c)." and insert - - *The method according to claim 34, wherein:*
said second common downlink control channel offset value is reported to said central node which is calculating said timing advance value for said second downlink channel according to step c). - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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

In Column 24, Lines 6-12, in Claim 38, delete "The method according to.....central node." and insert - - *A method according to claim 37, wherein the second common downlink control channel offset value between the respective common downlink control channel and the local frame counter state in the respective base station which offset value is reported regularly by the respective first and second base station to said central node.* - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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

In Column 24, Lines 13-41, in Claim 39, delete "An arrangement……mobile station." and insert - - *An arrangement for communicating framed information in a cellular radio communication system comprising at least one central node which is connected to at least two asynchronous base stations through which data packets are communicated on dedicated downlink channels and uplink channels with mobile stations, comprising*
a diversity handover unit for executing simultaneous communication via more than one base station with one of said mobile stations,
a master control unit for calculating timing advance values in order to align transmission timing between frame structures of the dedicated downlink channels and uplink channels in the at least two asynchronous base stations, wherein
each base station includes:
means to generate a local frame counter state per dedicated channel connection,
means to transmit a numbered data packet received from the central node in a dedicated channel frame with a corresponding data frame counter number,
and each central node includes:
a data packet counter state per mobile station connection for assigning identical numbers to all data packets containing equivalent data, that is sent to the at least two asynchronous base stations involved in the connection with the mobile station. - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE41,000

APPLICATION NO. : 10/934,631

ISSUE DATE : November 24, 2009

INVENTOR(S) : Per Hans Ake Willars

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

In Column 24, Lines 41-54, in Claim 40, delete "The arrangement.....counter state." and insert - - *The arrangement according to claim 39, wherein each base station further includes:*
at least one common local frame counter not individually associated with any specific dedicated channel which is used as a reference for initializing the local frame counter state at establishment of one of the dedicated downlink channels in the base station,
a timing control unit, receiving downlink channel offset information from the central node, and means to initialize the local frame counter state at establishment of each of said dedicated downlink channels by applying the offset information relative to the local frame counter state. - -, therefor.

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

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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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120324

DATE : March 24, 2012

TO SPE OF : ART UNIT 2471

SUBJECT : Request for Certificate of Correction on Patent No.: RE41,000E

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:

Changes are needed due to typos and error in not printing the correct set of claims.

/Shick Hom/

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILSON & HAM
1811 Santa Rita Road
Suite 130
Pleasanton, CA 94566

Mail Date: 08/02/2010

Applicant	: Sanjiv Doshi	: DECISION ON REQUEST FOR
Patent Number	: 7653911	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/934,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1263** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/21/11

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10934863 Patent No.: 7465800

CofC mailroom date: 03/14/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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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.

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

/Janet L. Andres/ **_1625_**

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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222 E.41st Street
New York NY 10017

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DEC 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,465,800	:
Jaworksy et al.	: DECISION UPON REMAND AND
Issue Date: December 16, 2008	: RECONSIDERATION OF
Application No. 10/934,863	: PATENT TERM ADJUSTMENT
Filed: September 3, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 9516-147-999	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Polymorphic Forms of 3-(4 amino-1-oxo-1,3Hydro-isoindol-2-YL)-2,6 Dione	:

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by nine hundred and sixty-six (966) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred and sixty-six (966) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction
Adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,465,800

DATED : December 16, 2008 **DRAFT**

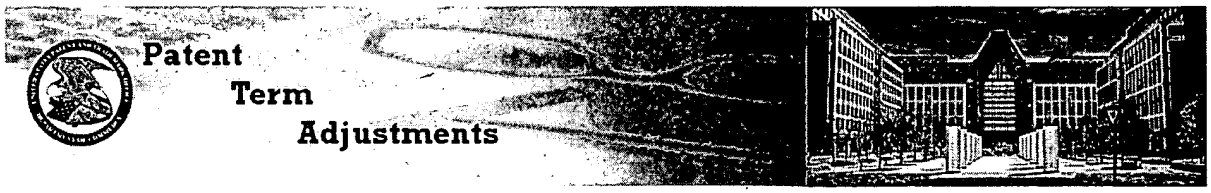
INVENTOR(S) : Jaworksy et al.

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 596 days

Delete the phrase "by 596 days" and insert – by 966 days--



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

Application Number*: 10934863 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10934863

Application Filing Date	09/03/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	12/16/2008	Non-Overlapping USPTO Delays:	596
A Delays	596	PTO Manual Adjustment	370
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	966

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
97	12/22/2011		P028	Adjustment of PTA Calculation by PTO	370	0	
87	12/16/2008		PTAC	Patent Issue Date Used in PTA Calculation		0	
87.5	11/25/2008	09/03/2007	PTA36M	PTA 36 Months	0	0	
86	11/20/2008		EFDC	Export to Final Data Capture		0	
85	11/19/2008		D1935	Dispatch to FDC		0	
84	11/12/2008		N084	Issue Fee Payment Verified		0	
83	11/12/2008		IFEE	Issue Fee Payment Received		0	
81	11/03/2008		MN/=.	Mail Notice of Allowance		0	
80	10/31/2008		IREV	Issue Revision Completed		0	
79	10/31/2008		DVER	Document Verification		0	
78	10/31/2008		N/=.	Notice of Allowance Data Verification Completed		0	
77	10/31/2008		DOCK	Case Docketed to Examiner in GAU		0	
76	10/31/2008		CNTA	Allowability Notice		0	
70	09/16/2008		FWDX	Date Forwarded to Examiner		0	
68	09/16/2008		ABN9	Disposal for a RCE / CPA / R129		0	
61	09/16/2008		PTAC	Patent Issue Date Used in PTA Calculation		0	
67	09/11/2008		MP015	Mail-Record Petition Decision of Granted to Withdraw from Issue - with assigned Patent NO.		0	
71	09/10/2008		RU47	Rule 47 / 48 Correction of Inventorship Papers Filed		0	
69	09/10/2008		RCEX	Request for Continued Examination (RCE)		0	
66	09/10/2008		P015	Record Petition Decision of Granted to Withdraw from Issue - with assigned Patent NO.		0	
65	09/10/2008		WFIS	Withdrawal Patent Case from Issue		0	
64	09/10/2008		PET.	Petition Entered		0	
63	09/10/2008		BRCE	Workflow - Request for RCE - Begin		0	
62	08/27/2008		WPIR	Issue Notification Mailed		0	
60	08/07/2008		EFDC	Export to Final Data Capture		0	
59	08/06/2008		FIDC	Finished Initial Data Capture		0	
58	08/06/2008		D1935	Dispatch to FDC		0	
57	07/30/2008		PILS	Application Is Considered Ready for Issue		0	
56	07/23/2008		N084	Issue Fee Payment Verified		0	
55	07/23/2008		IFEE	Issue Fee Payment Received		0	
54	05/05/2008		EIDC	Export to Initial Data Capture		0	
53	04/30/2008		MN/=.	Mail Notice of Allowance		0	
52	04/26/2008		IREV	Issue Revision Completed		0	
51	04/26/2008		DVER	Document Verification		0	
50	04/26/2008		N/=.	Notice of Allowance Data Verification Completed		0	
49	04/25/2008		CNTA	Allowability Notice		0	
44	02/21/2008		FWDX	Date Forwarded to Examiner		0	
45	01/09/2008		C614	New or Additional Drawing Filed		0	
43	01/09/2008		A...	Response after Non-Final Action		0	
42	01/02/2008		LET.	Miscellaneous Incoming Letter		0	
41	10/10/2007		MCTNF	Mail Non-Final Rejection		0	
40	10/04/2007		CTNF	Non-Final Rejection		0	
39	07/31/2007		FWDX	Date Forwarded to Examiner		0	
38	07/23/2007		ELC.	Response to Election / Restriction Filed		0	
37	06/22/2007	11/03/2005	MCTRS	Mail Restriction Requirement	596	-1	
36	06/20/2007		CTRS	Restriction/Election Requirement		0	
34	03/01/2007		IDSC	Information Disclosure Statement considered		0	
31.7	03/01/2007		M844	Information Disclosure Statement (IDS) Filed		0	
31	03/01/2007		WIDS	Information Disclosure Statement (IDS) Filed		0	
30	09/19/2006		A.PE	Preliminary Amendment		0	
35	04/24/2006		IDSC	Information Disclosure Statement considered		0	
32	04/24/2006		WIDS	Information Disclosure Statement (IDS) Filed		0	
28	01/04/2006		LET.	Miscellaneous Incoming Letter		0	
33	08/16/2005		IDSC	Information Disclosure Statement considered		0	

25	08/16/2005	RCAP	Reference capture on IDS	0
24.7	08/16/2005	M844	Information Disclosure Statement (IDS) Filed	0
24	08/16/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
23	07/15/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
20	07/15/2005	DOCK	Case Docketed to Examiner in GAU	0
27	06/28/2005	A.PE	Preliminary Amendment	0
21	06/28/2005	A.PE	Preliminary Amendment	0
19	06/28/2005	A.PE	Preliminary Amendment	0
16	01/24/2005	WROIPE	Application Return from OIPE	0
15	01/24/2005	ROIPE	Application Return TO OIPE	0
14	01/24/2005	OIPE	Application Dispatched from OIPE	0
13	01/24/2005	COMP	Application Is Now Complete	0
12	01/04/2005	ADDFLFEE	Additional Application Filing Fees	0
11	01/04/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
10	01/04/2005	CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems	0
18	12/17/2004	RCAP	Reference capture on IDS	0
17.7	12/17/2004	M844	Information Disclosure Statement (IDS) Filed	0
17	12/17/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
9	11/09/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	11/02/2004	L128	Cleared by L&R (LARS)	0
4	10/13/2004	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	10/13/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	09/22/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	09/03/2004	IEXX	Initial Exam Team nn	0

Export to: Excel

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

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

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,867,704	: DECISION ON REQUEST
Kapur et al.	: FOR
Issue Date: 01/11/2011	: RECONSIDERATION OF
Application No. 10/934,893	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/03/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
09531-112002	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 11, 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 one thousand two hundred fifty-one (1251) 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 fifty-one (1251) days is **GRANTED**.

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

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

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 fifty-one (1251)** days.

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

DWood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,867,704 B2

DATED : **Jan. 11, 2011** **DRAFT**

INVENTOR(S) : Kapur 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 1020 days.

Delete the phrase "by 1020 days" and insert – by 1251 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7029114
Issue Date: April 18,2006
Application No. 10934917
Filed: September 3,2004
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)
7029114	2006-04-18	10934917	2004-09-03	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

Under 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.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,014,225	2006-03-21	10/934,990	2004-09-07	08-359

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jonathan C. Parks/	Date (YYYY-MM-DD)	2011-03-30
Name	Jonathan C. Parks	Registration Number	40120

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
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In re Patent No. 7014225
Issue Date: March 21,2006
Application No. 10934990
Filed: September 7,2004
Attorney Docket No. VKP.P.1

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

This is a decision on the electronic petition, filed March 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUI CHUAN CHEN
41 HAMILTON AVE
NORWICH CT 06360

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of
Hui C. Chen et al.
Application No. 10/935,020
Filed: September 07, 2004
Attorney Docket No.

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 07, 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 February 05, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 06, 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the reply filed February 05, 2007, to the final Office action of July 13, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3711 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.

Rajnesh Krishnamurthy

for Rajnesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 8, 2010

TO SPE OF : ART UNIT 1625
SUBJECT : Request for Certificate of Correction for Appl. No /10/93505patent 7205409

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:

/Janet L. Andres/ 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Harrison :
Application No. 10/935,573 :
Filed: September 7, 2004 :
Attorney Dkt. No. 063134-0103 :
For: FINANCIAL INSTRUMENT FOR A :
SPECIFIC DELIVERABLE PRODUCT ON :
A DAILY SETTLEMENT BASIS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed April 13, 2011. Applicant requests that the determination of patent term adjustment be corrected from one thousand thirteen (1,013) days to one thousand two hundred sixty-two (1,262) days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

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

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

---

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

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

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

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

Charlema Grant
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Kendall et al.	:	DECISION ON PETITION
Application No. 10/935,754	:	TO WITHDRAW
Filed: September 8, 2004	:	FROM RECORD
Attorney Docket No. 1986.021.00	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed September 30, 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 was signed by Rebecca G. Rudich on behalf of all attorneys of record associated with Customer Number 30827. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Further, the request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

Additionally, the Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on September 30, 2010 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

(1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;

(2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and

(3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. It is suggested that petitioner submit a properly completed PTO/SB/83 (form enclosed), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

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

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/83

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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MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of	:	
SHALABY, SHALABY W.	:	
Application No. 10/935,808	:	ON PETITION
Filed: 09/08/2004	:	
Attorney Docket No. 5451-0032-1-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2011, to revive the application.

The petition is **GRANTED**.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of February 16, 2011, which set a three-month shortened statutory period for response. No extensions of time for response were obtained. Accordingly, the application became abandoned on May 17, 2011. A Notice of Abandonment was mailed on September 29, 2011.

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

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston TX 77269-2289

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of :
Sirohey, et al. :
Application No. 10/935,893 : DECISION ON PETITION
Filed: September 8, 2004 :
Attorney Docket No. **149041XX/YOD** :
(GEMS:0273)

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 **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed September 27, 2010, which set a three (3) month shortened statutory period for reply. The application became abandoned on December 28, 2010. A Notice of Abandonment was mailed April 7, 2011.

The Notice of Appeal, filed December 6, 2011, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being forwarded to Technology Center 3700, GAU 3737 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 31 2011

OFFICE OF PETITIONS

FELDMAN LAW GROUP, P.C.
220 East 42nd Street, Suite 3304
NEW YORK NY 10017

In re Application of	:	
Steven E. Summer	:	ON PETITION
Application No. 10/936,140	:	
Filed: September 7, 2004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Fee(s) Due mailed June 9, 2011, which set a statutory period for reply of three (3) months. The application became abandoned September 10, 2011. A Notice of Abandonment was mailed September 26, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a payment of the issue and publication fees, and submission of replacement drawings in accordance with the Notice mailed June 9, 2011, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

Petitioner has paid $755 towards the issue fee, however the issue fee is currently $870. Accordingly, $115 has been charged to petitioner's deposit account 06-0515.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Office of Data Management for further processing.

Robert DeWitty
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DOWELL & DOWELL P.C.
103 ORONOCO ST.
SUITE 220
ALEXANDRIA, VA 22314

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Sain et al.	:	
Application No. 10/936,236	:	ON PETITION
Filed: September 9, 2004	:	
Attorney Docket No. 17147	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 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, December 2, 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 March 3, 2009. A Notice of abandonment was mailed July 14, 2009.

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

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

This application is being referred to Technology Center AU 1657 for appropriate action by the Examiner in the normal course of business on the reply received August 3, 2009.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,497,677	:	
Issued: March 3, 2009	:	
Application No. 10/936,268	:	ON PETITION
Filed: September 8, 2004	:	
Attorney Docket No. CJM 9658.1	:	

This is a decision on the petition under 37 CFR 1.182, filed, February 25, 2010, to correct the spelling of the name of inventor "Stephen B. Crian" to – Stephen B. Crain – via Certificate of Correction.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. As stated in MPEP 201.03, where a typographical or translation error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. See MPEP 605.04(g). Reference to the notification will be made on the previously filed oath or declaration.

As such, no petition fee is required. The Certificate of Correction fee of $100.00 will be deducted from the $130.00 petition fee submitted. Accordingly, the excess $30.00 will be refunded to petitioner's credit card in due course.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/8/09

TO SPE OF : ART UNIT 3773 Ho Uyen (Jackie) T(spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/936376 Patent No.: 7566339

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

/Corrine McDermott/ — **SPE**

3773 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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VERTEX PHARMACEUTICALS INC.
Susan Batty-Gunn
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Sara S. Hadida Ruah, et al.	:	
Application No. 10/936,448	:	DECISION ON PETITION
Filed: September 7, 2004	:	
Attorney Docket No. VPI/03-145 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 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 February 24, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 24, 2010. Accordingly, the date of abandonment of this application is February 25, 2011. The Notice of Abandonment was mailed March 10, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	10936496
Filing Date	09-Sep-2004
First Named Inventor	Yun-Li Li
Art Unit	2811
Examiner Name	ANDREW ARENA
Attorney Docket Number	M-16293 US (70257.63)
Title	III-NITRIDE BASED ON SEMICONDUCTOR DEVICE WITH LOW-RESISTANCE OHMIC CONTACTS

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

Signature	/Pavel Kalousek/
Name	Pavel Kalousek
Registration Number	44178

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 8,2011

In re Application of :

Yun-Li Li

Application No : 10936496

Filed : 09-Sep-2004

Attorney Docket No : M-16293 US (70257.63)

DECISION ON PETITION

UNDER CFR 1.137(b)

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

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

This application file is being directed to the Office of Patent Publication.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 03 2011

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 7,907,934	:	DECISION ON REQUEST FOR
Naghian	:	RECONSIDERATION OF
Issue Date: March 15, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/936,681	:	and
Filed: September 9, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.: 39700-626001	:	CERTIFICATE OF CORRECTION
US/39700-626001 US/NC40145US	:	

This is a decision on the petition filed on May 13, 2011 pursuant to 37 C.F.R. § 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred and fourteen (614) 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 fourteen (614) days is **GRANTED.**

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

The Office agrees that the submission of an Information Disclosure Statement on November 20, 2007 warrants a 25-day reduction, pursuant to 37 C.F.R. § 1.704(c)(8).[1] The Office further agrees that the submission of the "COMMUNICATION

[1] It is noted that the issue of the 25-day reduction was first raised in a "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" that was submitted to the Office on July 1, 2010, contemporaneously with the submission of the issue fee. It is further noted that 1357 OG 262 applies to all letters filed on or after July 20, 2010.

REGARDING PATENT TERM ADJUSTMENT" on July 1, 2010[2] does not warrant a 120-day reduction pursuant to 37 C.F.R. § 1.704(c)(10).

The patent is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred and fourteen (614) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

[2] Petitioner has asserted that this paper was submitted to the Office on May 19, 2010, however this appears to be a typographical error.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,907,934 B2

DATED : **March 15, 2011** **DRAFT**

INVENTOR(S) : **Naghian**

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 519 days

Delete the phrase "by 519 days" and insert – by 614 days --

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **10-8-10**

TO SPE OF : ART UNIT **3714**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10936854** Patent No.: **7780518**

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: _____

_____

_____

_____

_____

/David L Lewis/ 3714
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/936,891	09/08/2004	Earl J. Votolato	019502.0020US1	1098

24392 7590 08/19/2010
FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1000
Irvine, CA 92614-6232

EXAMINER
ELEY, TIMOTHY V

ART UNIT	PAPER NUMBER
3724	

NOTIFICATION DATE	DELIVERY MODE
08/19/2010	ELECTRONIC

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

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

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

rfish@fishiplaw.com
patents@fishiplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. VOTOLATO, EARL J. Issue Date: April 15, 2008 Appl No.: 10/936,891 Filed: September 08, 2004 For: UTILITY KNIFE WITH SAFETY GUARD HAVING REDUCED PLAY	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed 6/8/10 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724

Boyer D. Ashley
Supervisory Patent Examiner
Art Unit 3724
Technology Center 3700

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1000
Irvine, CA 92614-6232

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,356,928
Patented: April 15,2008

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

David A. Sharbaugh
Earl J. Votolato

/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724

Boyer D. Ashley
Supervisory Patent Examiner
Art Unit 3724

UNITED STATES 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: August 13, 2010
TO: Certificates of Correction Branch
FROM: Boyer D. Ashley
SPE, Art Unit 3724
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,356,928 as specified on the attached Certificate.

/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724

Boyer D. Ashley, SPE
Art Unit 3724

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED Paper No.
SEP 29 2011
OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of	:	
Scholz et al.	:	
Application No. 10/937,059	:	
Filed: September 8, 2004	:	DECISION ON PETITION
Attorney Docket No. 58707US005	:	UNDER 37 C.F.R. § 1.137(B)
Title: ANTIMICROBIAL	:	
COMPOSITIONS AND METHODS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 9, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed December 28, 2010, which set a shortened statutory period for reply of three months. An after-final amendment was received on June 28, 2011 along with a three-month extension of time, and an advisory action was mailed on July 14, 2011. No additional extensions of time under the provisions of 37 C.F.R §1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on June 29, 2011. A notice of abandonment was mailed on August 8, 2011.

On August 9, 2011, Petitioner filed a Request for Continued Examination (RCE) along with the associated fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment filed on August 9, 2011 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on August 9, 2011 - can be processed in due course.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

L. Grant Foster
HOLLAND & HART LLP
P.O. Box 11583
Salt Lake City UT 84110

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Chabries et al.	:	
Application No.: 10/937104	:	DECISION ON
Filing or 371(c) Date: 09/08/2004	:	PETITION
Attorney Docket Number: 53293.0122	:	

This is a decision in response to the "Petition to Revive Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a), filed September 3, 2010.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 31, 2010. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 1, 2010. A Notice of Abandonment was mailed July 7, 2010.

The present petition

Applicant files the present petition and asserts that the Notice was not received. In support of this assertion, Applicant files the Declaration of Blair R. Christensen, docketing clerk for the attorneys of record at the law firm of Holland & Hart LLP. Ms. Christensen provides the procedures for receipt and docketing of correspondence from this Office by Holland & Hart, LLP, and states that she never received the final Office action mailed December 31, 2009.

Applicant also includes a reply to the final Office action.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant lacks item (**3**).

As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner at the correspondence address of record. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

MPEP 711.03(c)

Analysis and conclusion

Applicant has failed to demonstrate that the Office action was not received. In addition to a statement from the practitioner attesting to non-receipt of the Notice, Applicant must provide a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, and a copy of the file jacket and docket records where the nonreceived Notice would have been entered had it been received and docketed. As stated above, a copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for ***a date*** three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. (Emphasis added).

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and/or file jacket.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

L. Grant Foster
HOLLAND & HART LLP
P.O. Box 11583
Salt Lake City UT 84110

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Chabries et al.	:	
Application No.: 10/937104	:	DECISION ON
Filing or 371(c) Date: 09/08/2004	:	PETITION
Attorney Docket Number: 53293.0122	:	

This is a decision in response to the "Renewed Petition Under 37 CFR 1.137(e)," filed January 6, 2011. The renewed petition is properly treated under 37 CFR 1.137(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 31, 2010. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 1, 2010. A Notice of Abandonment was mailed July 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an Amendment; (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The application will be referred to Technology Center Art Unit 2614 for processing of the reply to the Office action, filed September 3, 2010, in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 02/28/11

Patent No. : 7853756 B2
Inventor : **Ukai**
Patent Issued : 12/14/10
Docket No. : **826.1975**

Re: Request for Certificate of Correction

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

Inspection of the file of the application for the patent reveals that in column 17, line 35 is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Lmn

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE of DATA MANAGEMENT

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

FEB 07 2011

In re Application of
LI, NIEN-LUN et al.
Application No. 10/937,282
Filed: September 10, 2004
Attorney Docket No.: BHT/3230-129

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on July 17, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed March 15, 2006. The Notice of Abandonment mailed on June 23, 2006 indicates, "The submitted fee of $0 is insufficient. A balance of $1000 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on June 14, 2006 authorizing that the Issue Fee be charged to Deposit Account No. 50-1874. On June 14, 2006 & July 17, 2006 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may 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.: _____

DATE : September 13, 2011

TO SPE OF : ART UNIT 3632 SPE Terrell L. McKinnon

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/937,451 Patent No.: 7,967,265 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the claims be amended in the patent as requested by applicant?
See COCIN dated 8-25-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

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

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

Comments: _____

SPE: /Terrell Mckinnon/ **Art Unit:** 3632

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 13, 2011

TO SPE OF : ART UNIT 3632 SPE Terrell L. McKinnon .

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/937,451 Patent No.: 7,967,265 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the claims be amended in the patent as requested by applicant?
See COCIN dated 8-25-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

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

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

Comments: The request for corrections contains substantial changes to claims that involve changing dependent claims to independent form, along with changing the spirit and scope of claim language in several claims which the examiner has not considered previously during examination.

SPE: /Terrell Mckinnon/ **Art Unit:** 3632

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

September 20, 2011

Patent No.: 7,967,265 B2
Applicant : Odd N. Oddsen, Jr., et al.
Issued : June 28, 2011
For : **ELECTRONIC DEVICE MOUNTING BRACKET FOR A HORIZONTAL SUPPORT**
Docket No. : **IOP-P0026.1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Respecting the alleged errors in the claims of the printed patent. The request for corrections contains substantial changes to claims that involve changing dependent claims to independent form, along with changing the spirit and scope of claim language in several claims which the examiner has not considered previously during examination. Therefore, the corrections as requested are disapproved.

In view of the foregoing, the correction is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Antonio Johnson
(571)272-0483
For Mary F. Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580

DESIGN IP, P.C.
5100 W. TILGHMAN STREET
SUITE 205
ALLENTOWN PA 18104

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 24, 2011

TO SPE OF : ART UNIT 3632 SPE Terrell L. McKinnon.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/937,451 Patent No.: 7,967,265 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the claims be amended as requested by applicant? (Reconsideration of refusal to issue certificate of correction)
See COCIN dated 10-11-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

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

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

Comments: The request for corrections has been denied. The claims are in the proper claim dependency order based on the independent claims and there dependent claim listings.

SPE___ /Terrell Mckinnon/_____ **Art Unit _3632___**

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

November 30, 2011

Patent No.: 7,967,265 B2
Applicant : Odd N. Oddsen, Jr., et al.
Issued : January 6, 2009
For : **ELECTRONIC DEVICE MOUNTING BRACKET FOR A HORIZONTAL SUPPORT**
Doc. No. : **IOP-P0026.1**

Re: Request for Reconsideration of Refusal to Enter Request for Certificate of Correction

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

Respecting the alleged error in the claims section of printed patent. The claims are in the proper claim dependency order based on the independent claims and their dependent claim listings. The proposed changes to the claims are disapproved.

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

Further correspondence concerning this matter should be filed and directed to:

U.S. Department of Commerce
Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Certificate of Corrections Branch

For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

DESIGN IP, P.C.
5100 W. TILGHMAN STREET
SUITE 205
ALLENTOWN PA 18104

AJ

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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AUG 09 2011
OFFICE OF PETITIONS

FUJITSU PATENT CENTER
FUJITSU MANAGEMENT SERVICES
OF AMERICA, INC.
2318 MILL ROAD, SUITE 1010
ALEXANDRIA VA 22314

In re Patent No. 7,499,082	:	
Issue Date : March 3, 2009	:	
Application No. 10/937,478	:	ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. 03-40959	:	

This is a decision on the petition, filed July 8, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's information name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

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

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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	10937502
Filing Date	10-Sep-2004
First Named Inventor	Kil-soo Jung
Art Unit	2481
Examiner Name	OLUWASEUN ADEGEYE
Attorney Docket Number	1101.0111C
Title	APPARATUS AND METHOD FOR DECODING DATA FOR PROVIDING BROWSABLE SLIDE SHOW, AND DATA STORAGE MEDIUM THEREFOR

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	/Daniel M. Schneider/
Name	Daniel M Schneider
Registration Number	68276

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 21,2011

In re Application of :

Kil-soo Jung

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10937502

Filed : 10-Sep-2004

Attorney Docket No : 1101.0111C

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 21,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2481 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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OFFICE OF PETITIONS

Buchanan, Ingersoll & Rooney PC
PO Box 1404
Alexandria, VA 22313-1404

In re Patent No. 7,579,377 Graeber et al. Issue Date: August 25, 2009 Application No. 10/937,612 Filed: September 10, 2004 Attorney Docket No. Title: Adminstration of 6-[3-(1-Adamantyl)-4-MethoxyPhenyl]2-Naphthoic Acid for the treatment of Dermatological disorders	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by ONE THOUSAND TWO HUNDRED AND SEVENTY-EIGHT (1278) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE THOUSAND TWO HUNDRED AND SEVENTY-EIGHT (1278) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction
Copy of adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,579,377

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Graeber 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 714 days

Delete the phrase "by 714 days" and insert – by 1278 days--

Day : Wednesday

PALM INTRANET

Date: 11/3/2010
Time: 13:12:23

PTA Calculations for Application: 10/937612			
Application Filing Date:	09/10/2004	PTO Delay (PTO):	820
Issue Date of Patent:	08/25/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	106
Post-Issue Petitions:	0	Total PTA (days):	1278
PTO Delay Adjustment:	564		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
88	11/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	564		
79.5	08/05/2009	PTA 36 MONTHS			
79	08/25/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
78	07/29/2009	EXPORT TO FINAL DATA CAPTURE			
77	07/27/2009	FINISHED INITIAL DATA CAPTURE			
76	07/27/2009	DISPATCH TO FDC			
75	05/22/2009	EMAIL NOTIFICATION			
74	05/20/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
73	05/22/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
72	05/20/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
71	05/08/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	73
70	05/08/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		15	73
69	05/08/2009	RESPONSE TO REASONS FOR ALLOWANCE			
68	05/08/2009	ISSUE FEE PAYMENT VERIFIED			
67	05/08/2009	ISSUE FEE PAYMENT RECEIVED			
61	04/21/2009	MAIL NOTICE OF ALLOWANCE			
60	04/17/2009	ISSUE REVISION COMPLETED			
59	04/17/2009	DOCUMENT VERIFICATION			
58	04/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	04/08/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
56	04/13/2009	NOTICE OF ALLOWABILITY			

55	12/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	12/30/2008	CERTIFIED TRANSLATION OF SPECIFICATION FILED			
53	12/30/2008	REFERENCE CAPTURE ON IDS			
52	12/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	49
51	12/30/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
50	01/29/2009	DATE FORWARDED TO EXAMINER			
49	12/30/2008	RESPONSE AFTER NON-FINAL ACTION		91	41
48	12/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	12/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	12/18/2008	EMAIL NOTIFICATION			
45	12/18/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	12/10/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	07/01/2008	ELECTRONIC REVIEW			
42	06/30/2008	EMAIL NOTIFICATION			
41	06/30/2008	MAIL NON-FINAL REJECTION			
40	06/23/2008	NON-FINAL REJECTION			
39	06/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	04/08/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
34	04/19/2008	DATE FORWARDED TO EXAMINER			
33	04/08/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
32	04/08/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	02/12/2008	ELECTRONIC REVIEW			
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29	02/08/2008	MAIL RESTRICTION REQUIREMENT	820		-1
28	02/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
27	02/04/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
26	01/09/2008	CASE DOCKETED TO EXAMINER IN GAU			
25	07/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	06/21/2006	REFERENCE CAPTURE ON IDS			
23.7	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

23	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	03/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	03/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	03/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	04/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	02/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	02/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	12/09/2004	APPLICATION RETURN FROM OIPE			
14	12/09/2004	APPLICATION RETURN TO OIPE			
13	12/08/2004	APPLICATION RETURN FROM OIPE			
12	12/09/2004	APPLICATION IS NOW COMPLETE			
11	12/08/2004	APPLICATION RETURN TO OIPE			
10	12/08/2004	APPLICATION DISPATCHED FROM OIPE			
9	12/08/2004	APPLICATION IS NOW COMPLETE			
8	11/30/2004	ADDITIONAL APPLICATION FILING FEES			
7	11/30/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/10/2004	CLEARED BY L&R (LARS)			
4	10/15/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/15/2004	CASE CLASSIFIED BY OIPE			
2	09/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/10/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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Paper No.

IBM CORP. (AUS)
C/O THE LAW OFFICE OF JAMES BAUDINO, PLLC
600 SIX FLAGS DRIVE
SUITE 400
ARLINGTON TX 76011

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeffries et al.	:	
Application No. 10/937,695	:	
Filed: September 9, 2004	:	DECISION ON PETITION
Attorney Docket No.	:	UNDER 37 C.F.R. § 1.137(B)
AUS920040414US1	:	
Title: FRONT-END PROTOCOL FOR	:	
SERVER PROTECTION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 5, 2011, to revive the above-identified application.

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

A final Office action was mailed on October 1, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 2, 2010. A notice of abandonment was mailed on May 11, 2010.

On August 5, 2011, Petitioner filed, *inter alia*, a Request for Continued Examination (RCE) along with the associated fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment filed on August 5, 2011 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on August 5, 2011 - can be processed in due course.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No.

SEP 21 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7713260	: DECISION ON REQUEST
Lessard et al.	: FOR
Issue Date: 05/11/2010	: RECONSIDERATION OF
Application No. 10/937862	: PATENT TERM ADJUSTMENT
Filed: 09/09/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
8627-569 (PA-5433-RFB)	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 7, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred seven (1407) 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 seven (1407) days is **GRANTED**.

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

The application is being forwarded to the Certificates of 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 four hundred seven (1407)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,713,260 B2

DATED : **May 11, 2010** **DRAFT**

INVENTOR(S) : Lessard 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 1177 days.

Delete the phrase "by 1177 days" and insert – by 1407 days--

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FEB 14 2011

OFFICE OF PETITIONS

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19193-3508

In re Application of	:	
ADAIR, et al	:	
Application No. 10/937,949	:	ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. CARP0001-110	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2009, to revive the above-identified application.

The petition is **DISMISSED because it is MOOT.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 17, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 18, 2008.

A review of the Office record indicates an Express Abandonment under 37 CFR 1.138 was filed February 3, 2011. Accordingly, the petition filed March 16, 2009, is moot.

Since the petition is unnecessary, the petition fee of $1620 will be credited to petition's Deposit Account No. 50-3111.

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

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

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

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Wakayama et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,636,007	:	PATENT TERM ADJUSTMENT
Issue Date: 12/22/2009	:	and
Application No. 10/937982	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 09/10/2004	:	CERTIFICATE OF CORRECTION
Attorney Docket Number: 13438US02	:	

This is a decision on the petition filed on June 4, 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 ten (1110) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by thirty-four (34) days is **DISMISSED**.

On May 4, 2010, this Office mailed a Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction. This request for reconsideration of patent term adjustment was timely filed within one month of the mail date of the decision.

Applicants request an additional one (1) day 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), September 11, 2007, and ending on the date a Request for Continued Examination ("RCE") was filed, November 24, 2008.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 11, 2007, and ends on November 23, 2008, the day before the RCE was filed, and is 440 days. See, 35 U.S.C. 154(b)(1)(B)(i).

Patentees also request that the patent term adjustment ("PTA") be adjusted to include two (2) days of adjustment in connection with the filing of the issue fee three months and two (2) days after the mail date of the after the mailing of the Notice of Allowance and Issue Fee Due. Patentees believe that they should not have been assessed two (2) days of delay relative to the payment of the issue fee. Patentees acknowledge that the date three months after the mailing of the Notice of Allowance is November 7, 2009, and that the Issue Fee in response to the Notice of Allowance was filed on November 9, 2009. However, Patentees aver that the issue fee was timely because the time period for reply ended on a Saturday, Sunday or Federal Holiday, in which instance, Patentees provide, the reply is timely if filed on the next succeeding business day. Patentees cite to 37 CFR § 1.6(a), which provides in relevant part, that when the last day for paying any fee falls on a Saturday, Sunday or Federal Holiday within the District of Columbia, the fee may be paid on the next succeeding or secular or business day.

Regarding the delay of two (2) days attributed to Applicant under 37 CFR 1.704(b), for filing the issue fee on November 9, 2009, Patentee' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. That is, while the date indicated on any certificate of mailing or transmission under § 1.8 will continue to be taken into account in determining timeliness, <u>the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation</u>. Applicant may wish to consider the use of the ''Express Mail Post Office to Addressee'' service of the United States Postal Service (§ 1.10) or facsimile transmission (§ 1.6(d)) for replies to be accorded the earliest possible <u>filing date</u> for patent term adjustment calculations. (Emphasis supplied). *See also*, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*; *Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

In accordance with 37 CFR 1.703(f), the Office properly used November 9, 2009, the filing date of the issue fee, in calculating the patent term adjustment. Accordingly, Patentees' argument on request for reconsideration of patent term adjustment is not found persuasive.

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

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

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

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

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

/DW/

Derek Woods
Attorney
Office of Petitions

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DALLAS, TX 75380

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MAY 09 2011
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In re Application of	:	
Troy Alan Ussery, et al.	:	
Application No. 10/938,052	:	DECISION ON PETITION
Filed: September 10, 2004	:	TO WITHDRAW
Attorney Docket No. OFFW01-00016	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 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 John T. Mocklker on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Troy Ussery**
2000 N. Central Expressway
Suite 209
Plano, TX 75074

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/938,052	09/10/2004	Troy Alan Ussery	OFFW01-00016

CONFIRMATION NO. 3526

23990
DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

POWER OF ATTORNEY NOTICE

OC000000047484685

Date Mailed: 05/03/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2011.

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

/tsjohnson/

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

3NITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : March 28, 2011
Serial No. :10/938116
Patent No. :7,877,238 B2
Patent Issued :January 25, 2011
Inventor(s) :Kliyoaki Watanabe, et al.
Title DATA CLASSIFICATION SUPPPORTING METHOD, COMPUTER READABLE STORAGE MEDIUM AND DATA CLASSIFICATION SUPPLORTING APPARATUS

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.

Respecting the alleged errors noted in your request the article "A", "An," or "The" as the first word of a title of invention is not printed as noted in the Manual or the GPO Style Manual, under the General Rules for printing patent documents.

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

A certificate of correction will issue for the remaining error noted in your request.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
FAX 571-270-9942

Brinks Hofer Gilson & Lion
Brian C. Remy
P.O. Box 10395
Chicago, ILL 60610

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

MAILED
OCT 26 2010
OFFICE OF PETITIONS

In re Application of
Howard W. Lutnick et al.
Application No. 10/938,143
Filed: September 10, 2004
Attorney Docket No. 03-1089CIP

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 November 17, 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 7, 2008.

A response to the restriction requirement was filed on November 7, 2008.

A Notice of Non-Compliant Amendment was mailed January 5, 2009. This Notice indicated that applicant had failed to elect an invention.

A Notice of Abandonment was mailed May 21, 2009.

A petition to the TC Director was filed November 17, 2009.

A petition decision by the TC Director, dismissing the November 17, 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 150 through 186.

A non-final Office action was mailed on January 13, 2010. The Office action of January 13, 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 November 17, 2009, which requested that: (1) the requirement for restriction mailed August 7, 2008, the notice of noncompliant amendment mailed January 5, 2009, and the notice of abandonment mailed May 21, 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 7, 2008, the examiner issued a restriction requirement under 37 CFR 1.142. Applicant filed a reply to the restriction requirement on November 7, 2008, and subsequently a petition under 37 CFR 1.181 on November 17, 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 November 17, 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 January 5, 2009, and notice of abandonment mailed on May 21, 2009, were subsequently withdrawn. An Office action on the merits was mailed on January 13, 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 November 17, 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 that issues 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.

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[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 January 13, 2010.

Robert W. Bahr
Acting Associate Commissioner for
Patent Examination Policy

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: TI-37154	Patent Number: 7,667,275
Filing Date (or 371(b) or (f) Date): 09-11-2004	Issue Date: 02/23/2010
First Named Inventor: Yuanning Chen	
Title: USING OXYNITRIDE SPACER TO REDUCE PARASITIC CAPACITANCE IN CMOS DEVICES	

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

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

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

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

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

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

☑ *Total of 1 forms are submitted.

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

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

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

Mail Date: 08/18/2010

Applicant	: Yuanning Chen	: DECISION ON REQUEST FOR
Patent Number	: 7667275	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/938,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **877** 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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AUG 02 2010

OFFICE OF PETITIONS

Geron/Finnegan LLP
901 New York Avenue, NW
Washington DC 20001

In re Patent No. 7,494,982	:
Gryaznov et al.	: DECISION UPON REMAND AND
Issue Date: February 24, 2009	: RECONSIDERATION OF
Application No. 10/938,184	: PATENT TERM ADJUSTMENT
Filed: September 9, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 07681.0057-00000	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Modified Oligonucleotides for Telomerase Inhibition	:

This is a corrected decision of the decision mailed 7/29/2010. The Office reiterates that the PTA is 474 days. The determination included an errant draft certificate of correction which errantly listed 532 days as the correct determination. As stated, the proper calculation is 474 days. See certificate of correction draft infra.

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by four H hundred seventy-four(474) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred seventy-four (474) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction
Copy of Adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,494,982

DATED : **February 24, 2009** **DRAFT**

INVENTOR(S) : Gryaznov 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 474 days

Delete the phrase "by 191 days" and insert – by 474 days--

PALM INTRANET

Day : Monday
Date: 8/2/2010
Time: 08:35:50

PTA Calculations for Application: 10/938184

Application Filing Date:	09/09/2004	PTO Delay (PTO):	453
Issue Date of Patent:	02/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	215
Post-Issue Petitions:	0	Total PTA (days):	474
PTO Delay Adjustment:	236		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	07/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	45		
105	07/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	238		
100	10/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
97	09/28/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
96	09/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		81	
95	09/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	33		
90.5	02/04/2009	PTA 36 MONTHS			
90	02/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
89	01/22/2009	EXPORT TO FINAL DATA CAPTURE			
88	01/21/2009	FINISHED INITIAL DATA CAPTURE			
87	01/21/2009	DISPATCH TO FDC			
86	01/22/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
85	12/22/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
84	12/22/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		32	86
83	12/30/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
82	12/22/2008	WORKFLOW - DRAWINGS FINISHED		33	
81	12/23/2008	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
80	12/23/2008	ISSUE FEE PAYMENT VERIFIED			
79	12/23/2008	ISSUE FEE PAYMENT RECEIVED			
78	12/11/2008	WORKFLOW - QUERY REQUEST - FINISH			
77	12/10/2008	TC RETURN TO PUBS			
76	12/10/2008	MAIL PUB OTHER MISCELLANEOUS COMMUNICATION TO APPLICANT			
75	12/10/2008	PUB OTHER MISCELLANEOUS COMMUNICATION TO APPLICANT			
74	11/21/2008	RESPONSE TO REASONS FOR ALLOWANCE			
73	11/17/2008	WORKFLOW - QUERY REQUEST - BEGIN			
72	11/13/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
71	10/27/2008	EXPORT TO INITIAL DATA CAPTURE			
70	11/06/2008	MAIL NOTICE OF ALLOWANCE			
69	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	10/21/2008	ISSUE REVISION COMPLETED			
64	10/21/2008	DOCUMENT VERIFICATION			
63	10/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	10/14/2008	NOTICE OF ALLOWABILITY			
61	10/02/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
60	07/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	10/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	10/08/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
57	10/07/2008	CORRESPONDENCE ADDRESS CHANGE			
56	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	08/28/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
54	07/14/2008	REFERENCE CAPTURE ON IDS			
53	07/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	07/14/2008	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
51	07/14/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
50	07/31/2008	DATE FORWARDED TO EXAMINER			
49	07/14/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	07/31/2008	DATE FORWARDED TO EXAMINER			
47	07/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		30	42
46	07/31/2008	DISPOSAL FOR A RCE / CPA / R129			
45	07/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	07/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	07/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			

42	03/14/2008	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
41	03/06/2008	EX PARTE QUAYLE ACTION			
36	02/27/2008	DATE FORWARDED TO EXAMINER			
35	02/05/2008	AMENDMENT AFTER FINAL REJECTION			
34	11/05/2007	MAIL FINAL REJECTION (PTOL - 326)	25		25
33	10/29/2007	FINAL REJECTION			
32	12/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	06/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	08/15/2007	DATE FORWARDED TO EXAMINER			
29	08/09/2007	SUPPLEMENTAL RESPONSE		59	25
28	06/11/2007	REFERENCE CAPTURE ON IDS			
27	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	06/28/2007	DATE FORWARDED TO EXAMINER			
25	06/11/2007	RESPONSE AFTER NON-FINAL ACTION		61	20
24	06/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/22/2006	REFERENCE CAPTURE ON IDS			
21.7	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/11/2007	MAIL NON-FINAL REJECTION	428		-1
19	01/08/2007	NON-FINAL REJECTION			
18	06/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	11/18/2005	CORRESPONDENCE ADDRESS CHANGE			
15	02/11/2005	APPLICATION RETURN FROM OIPE			
14	02/11/2005	APPLICATION RETURN TO OIPE			
13	02/11/2005	APPLICATION DISPATCHED FROM OIPE			
12	02/11/2005	APPLICATION IS NOW COMPLETE			
11	01/18/2005	ADDITIONAL APPLICATION FILING FEES			
10	01/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	01/18/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
8	02/04/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	11/19/2004	SEQUENCE ERRORS			
5	11/10/2004	CLEARED BY L&R (LARS)			
4	10/15/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/15/2004	CASE CLASSIFIED BY OIPE			
2	09/28/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/09/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,604,650	:	
Issued: October 20, 2009	:	
Application No. 10/938,410	:	ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. 22561-6201/US/2	:	

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

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

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Jeffrey J. Hohenshell
710 Medtronic Parkway
Minneapolis, MN 55432

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/17/2011 **Paper No.:** —

TO SPE OF : ART UNIT 3718

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/938489 Patent No.: 7892084 B2

CofC mailroom date: 3/02/2011

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 Talbert
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: _____

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3718
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 : 7,896,736 B2
Ser. No. : 10/938,490
Inventor(s) : Jon Yarbrough
Issued : March 1, 2011

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
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

James R. Yee, Howard & Howard Attorneys PLLC
450 West Fourth Street
Royal Oak, Michigan 48067-2557

ej

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WPAT, PC
INTELLECTUAL PROPERTY ATTORNEYS
7225 BEVERLY ST.
ANNANDALE VA 22003

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SEP 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Wei-Han et al.	:	
Application No. 10/938,528	:	DECISION ON PETITION
Filed: September 13, 2004	:	
Attorney Docket No. **18906-277**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 09, 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, May 27, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 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 an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final office action of May 27, 2009 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 1791 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JUSTIN KING**
1940 DUKE STREET SUITE 200
ALEXANDRIA VA 22314

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)
6952838	2005-10-11	10938896	2004-09-11	elise - gillette

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Elise MJ Champe/	Date (YYYY-MM-DD)	2010-09-09
Name	Elise MJ (Gillette) Champe		

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. 6952838
Issue Date: October 11,2005
Application No. 10938896
Filed: September 11,2004
Attorney Docket No. ELISE - GILLETTE

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

This is a decision on the electronic petition, filed September 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
EDWIN E. KLINGMAN :
Application No. 10/938,990 : ON PETITION
Filed: September 9, 2004 :
Attorney Docket No. **614-4401** :

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

This application became abandoned for failure to timely pay the issue and publication fees on or before April 27, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 27, 2009. Accordingly, the date of abandonment of this application is April 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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The petition is hereby **GRANTED**.

Petitioner has stated in the instant petition that a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS) were timely filed on April 27, 2009, and that "PTO's abandonment was improper and thus no petition to revive was needed" and is requesting for a refund of the petition fee.

Petitioner should note that when filing an RCE and the submission required therefor, petitioner must explicitly state an RCE is being filed. Furthermore, the IDS filed April 27, 2009, was deemed to be improper for reasons noted in the Office communication mailed June 17, 2009. Thus the submission of April 27, 2009, did not constitute a proper RCE. In the RCE transmittal form filed May 6, 2010, petitioner has acknowledged that an RCE transmittal form was missing form the submission dated April 27, 2009. As a response to the Notice of Allowance was not timely received by

the Office, the application became abandoned on April 28, 2009. The petitioner filed a petition to revive on May 4, 2010, and received a decision on June 18, 2010.

In view of the above, a refund of the petition fee cannot be granted.

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

This application is being referred to Technology Center AU 2168 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the submission under 37 CFR 1.114 identified therein.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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In re Patent No. 7162365
Issue Date: January 9,2007
Application No. 10939243
Filed: September 10,2004
Attorney Docket No. ITL.0629D1US (P12053D)

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

This is a decision on the electronic petition, filed January 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 January 27,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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)
7162365	2007-01-09	10939243	2004-09-10	ITL.0629D1US (P12053D)

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Timothy N. Trop/	Date (YYYY-MM-DD)	2011-01-27
Name	Timothy N. Trop	Registration Number	28994

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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OFFICE OF PETITIONS

In re Patent No. 7,220,660
Issue Date: 22 May, 2007
Application No. 10/939,271
Filed: 13 September, 2004
Attorney Docket No. 070050.2633

DECISION

This is a decision on the petition filed on 18 August, 2010, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

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

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to IFW Files Repository.

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

Patent No. 7,220,660
Application No. 10/939,271

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Application of :
Mayer :
Application No. 10/939,454 :
Filed: September 14, 2004 : DECISION ON PETITION
Title: SYSTEM AND METHOD FOR : UNDER 37 C.F.R. § 1.137(B)
IMPROVED SEARCHING ON THE :
INTERNET OR SIMILAR NETWORKS :
AND ESPECIALLY IMPROVED :
METANEWS AND/OR IMPROVED :
AUTOMATICALLY GENERATED :
NEWSPAPERS :

This is a decision on the petition filed December 9, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The concurrently submitted Power of Attorney and Change of Correspondence Address has been entered and made of record.

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 December 23, 2008, 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 available, and no responses were received. Accordingly, the above-identified application became abandoned on March 24, 2009. A notice of abandonment was mailed on October 2, 2009.

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 filed a Request for Continued Examination (RCE) along with the required fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on December 9, 2010 - 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

---

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).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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OVERLAND PARK KS 66251-2100

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SEP 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,769,159 :
Paterik : DECISION ON REQUEST FOR
Issue Date: August 3, 2010 : RECONSIDERATION OF
Application No. 10/939,636 : PATENT TERM ADJUSTMENT
Filed: September 13, 2004 :
Attorney Docket No. 2840 :
Title: METHOD AND SYSTEM FOR :
IDENTIFYING CALLS :

This is a decision on the petition filed on August 9, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred eighty-seven (1587) days.

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

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 1011 (November 14, 2005 to August 20, 2008) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1055 (September 14, 2007 to August 3, 2010) days the day of issuance of the patent.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the first Notice of Appeal filed April 3, 2009. The reduction of 138 days commenced April 3, 2009; the date that the Notice of Appeal was filed, and ended August 18, 2009, the day the non-final Office action was mailed. See, 37 CFR 1.703(b)(4).

There are 204 days that overlap (January 30, 2008 to August 20, 2008).

In view thereof, the patent is entitled to an overall adjustment of 1724 days.

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

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Cc: McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

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ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Hartti Suomela, et al.	:	
Application No. 10/939,825	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. 042933/280729	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 22, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Chad L. Thorson on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Notice of Allowance and Fee(s) Due action mailed July 20, 2010 that requires a reply from the applicant.

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

Terri Johnson
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/939,825	09/13/2004	Hartti Suomela	042933/280729

CONFIRMATION NO. 4428

POWER OF ATTORNEY NOTICE

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

OC000000043266951

Date Mailed: 08/30/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/22/2010.

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

/tsjohnson/

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

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CLIFFORD H. KRAFT
320 ROBIN HILL DR.
NAPERVILLE IL 60540

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
BOESEN, Peter V.	:	
Application No. 10/939,940	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. **P03999US19**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 02, 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 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

The request was signed by Clifford H. Kraft on behalf of all attorneys of record, however does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with the same Customer 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 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Durham, Daniel L.	:	
Application No. 10/940,132	:	ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No. DUR03 P-304	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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. 12/832,537.

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 $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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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TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS, MI 48302

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SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
John N. Sanders-Reed, et al. :
Application No. 10/940,276 :
Filed: September 14, 2004 :
Attorney Docket No.: 82,000-706 (03-1329) :

ON PETITION

This is a decision in response to the petition, filed August 11, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 21, 2010. A Notice of Abandonment was mailed on August 2, 2010.

Petitioner asserts that the Notice of January 21, 2010 was not received. In support petitioner submits "a copy of the docketing book between the dates of 3/22/2010 and 5/20/2010 during which B-706 (the Attorney Docket No.) would have been entered on April 21, 2010, the 3-month response date."

A review of the written record indicates no irregularity in the mailing of the Notice on January 21, 2010, 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.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action

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

The instant petition does not establish non-receipt of the Notice in compliance with the procedures set for at MPEP 711.03(c). Specifically, the petition does not describe the system used for recording an Office action received at the correspondence address of record and there is no statement establishing the reliability of the docketing system. Further, the petition fails to include a statement that a search of the file jacket or equivalent was made and that the application contents thereof indicates that the Office action of January 21, 2010 was not received.

Absent the required evidence to establish non-receipt of the Office action of January 21, 2010, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS, MI 48302

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JAN 05 2011
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In re Application of :
John N. Sanders-Reed, et al. :
Application No. 10/940,276 :
Filed: September 14, 2004 :
Attorney Docket No.: 82,000-706 (03-1329) :

ON PETITION

This is a decision in response to the petition, filed October 20, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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.

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

It is noted that an amendment in response to the final Office action mailed January 21, 2010, was included with the petition filed on October 20, 2010; however, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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

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

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[3]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

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

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/940,276	Applicant(s) SANDERS-REED ET AL.	
	Examiner JENNIFER ZUBAJLO	Art Unit 2629	

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

THE REPLY FILED 20 October 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: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *1,2,4-18 and 41-54*.
   Claim(s) withdrawn from consideration: *n/a*.

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: same reasons as set forth in previous office action.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jennifer Zubajlo/
Examiner, Art Unit 2629
1/4/11

Continuation of 3. NOTE: Newly added limitations require further search and consideration.

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Alexandria, VA 22313-1450
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TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS, MI 48302

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
John N. Sanders-Reed, et al.	:	
Application No. 10/940,276	:	ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No.: 82,000-706 (03-1329)	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 21, 2010. A Notice of Abandonment was mailed on August 2, 2010. On October 20, 2010 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed January 5, 2011. In response, on January 19, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $810; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7114194
Issue Date: October 3,2006
Application No. 10940399
Filed: September 14,2004
Attorney Docket No. 2299.001

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

This is a decision on the electronic petition, filed December 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 December 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)
7,114,194	2006-10-03	10/940,399	2004-09-14	2299.001

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

Under 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	/nicholasdrouse/	Date (YYYY-MM-DD)	2010-12-09
Name	Nicholas D. Rouse	Registration Number	36992

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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Stephen E. Clark
P. O. Box 11294
Norfolk VA 23517

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NOV 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,151,253	:	
Issue Date: December 19, 2006	:	
Application No. 10/940,494	:	ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 7, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Peter J. Van Bergen appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Peter J. Van Bergen desires to be acknowledged as the attorney of record regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Peter J. Van Bergen, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

This patent expired at midnight December 19, 2010, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is hereby **GRANTED**.

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

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Peter J. Van Bergen
c/o Kaufman & Canoies
P.O. Box 3037
Norfolk, VA 23514-3037

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BOTKIN & HALL, LLP
105 E. JEFFERSON BLVD.
SUITE 400
SOUTH BEND IN 46601

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Ross Weldy	:	
Application No. 10/940,561	:	ON PETITION
Filed: September 13, 2004	:	
Attorney Docket No. 1065-004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Final Office action mailed December 15, 2008.

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

As to item (1):

The Office is not in receipt of the required reply to the Final Office action mailed December 15, 2008. Applicant only submitted copy of application.

As to item (2):

The Office is not in receipt of the required petition fee set forth in 37 CFR 1.17(m).

As to item (3):

The required statement that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, has **not** been received. Also, applicant submitted two (2) copies of page one of the petition form PTO/SB/64. **No signature page submitted that includes the required statement.**

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 17 2011
OFFICE OF PETITIONS

WORKMAN NYDEGGER / FINISAR
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of Johnson :
Application No. 10/940,697 : Decision on Petition
Filing Date: September 14, 2004 :
Attorney Docket No. 15436.443.3 :

This is a decision on the petition filed October 19, 2010, which is being treated as a petition under 37 C.F.R. § 1.181 requesting withdrawal of the holding of abandonment.

The petition is **granted**.

The Office mailed a final Office action on July 9, 2008, setting a three-month shortened statutory period for reply.

Petitioner filed a Notice of Appeal,a Pre-Appeal Brief Request for Review, and payment for a one-month extension of time on October 27, 2008.

The Office mailed a Notice of Abandonment on September 16, 2009. The notice states the application is abandoned because a reply was never filed in response to the final Office action.

Petitioner argues the application is not abandoned.

Petitioner filed a Notice of Appeal on October 27, 2008. A Notice of Appeal is a proper reply to a final Office action. Therefore, the application is not abandoned as a result of Petitioner failing to file a proper reply to the final Office action.

Since a Pre-Appeal Brief Request for Review was filed with the Notice of Appeal, the time limit period for Petitioner to file an appeal brief is "the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request." *Pre-Appeal Brief Conference Pilot Program*, 1296 Off. Gaz. Pat. Office 67 (July 12, 2005). The Office has not issued a decision on the request. Therefore, the period during which an appeal brief can be timely filed has not expired. In other words, the application is not abandoned as a result of a failure by Petitioner to timely file an appeal brief.

In view of the prior discussion, the holding of abandonment is withdrawn.

Technology Center Art Unit 2822 will be informed of the instant decision and the Pre-Appeal Brief Request for Review will be addressed in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of :
Gurney et al. :
Application No. 10/940,867 :
Filed: September 14, 2004 :
Attorney Dkt. No. :
29915/6177PCP.A :
For: ALZHEIMER'S DISEASE :
SECRETASE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "PETITION TO REQUEST RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed May 3, 2010.

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

Applicants state that a reduction of 169 days due to the abandonment of the application is required.

A review of the application history shows a reduction of 245 days, not 169 days is warranted for the abandonment of the application pursuant to 37 CFR § 1.704(c)(3)(i) is required.

37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth

> in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of: (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

In this instance the application was held abandoned on May 5, 2007, based upon the failure of applicant to file a response to the restriction requirement of April 4, 2007. The restriction requirement provided applicant with a one month extendable period of reply. A timely request for extension of time was not provided. As such the date of abandonment is May 5, 2007. A grantable petition to revive under 37 CFR 1.137(b) was filed on December 20, 2007 and granted on January 4, 2008.

In accordance with 37 CFR 1.704(c)(3), the adjustment is properly reduced by 245 days. The period of reduction commenced May 5, 2007, the date of abandonment, and ended January 4, 2008, the date of mailing of the decision reviving the application. *See*, 37 CFR 1.704(c)(3)(i).

At the time of mailing of the Notice of Allowance, applicants' delay total is 422 (245 + 90 + 87) days and Office delay totals 571 days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is one hundred forty-nine **(149)** days.

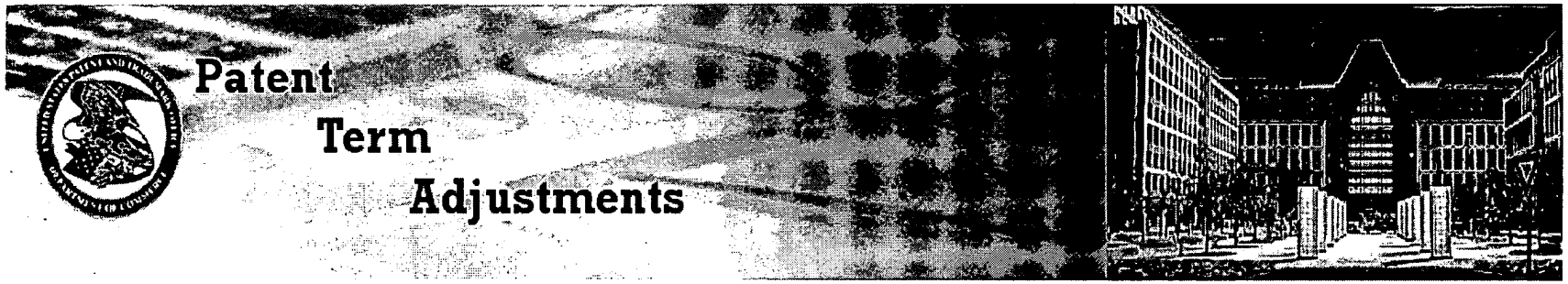
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen



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

Application Number*: 10940867 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10940867

Application Filing Date	09/14/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	571
A Delays	571	PTO Manual Adjustment	-245
B Delays	0	Applicant Delay (APPL)	177
C Delays	0	Total PTA (days)	149

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
70	09/07/2010		P028	Adjustment of PTA Calculation by PTO	245	0	
61	02/01/2010		MN/=.	Mail Notice of Allowance		0	
60	01/29/2010		IREV	Issue Revision Completed		0	
59	01/29/2010		DVER	Document Verification		0	
58	01/29/2010		N/=.	Notice of Allowance Data Verification Completed		0	

57	01/29/2010		EX.A	Examiner's Amendment Communication			0
55	01/26/2010		CNTA	Notice of Allowability			0
56	01/18/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
48	11/07/2009		FWDX	Date Forwarded to Examiner			0
50	10/08/2009		IDSC	Information Disclosure Statement considered			0
49	10/08/2009	10/08/2009	M844	Information Disclosure Statement (IDS) Filed			47
47	10/08/2009	07/13/2009	A...	Response after Non-Final Action		87	44
46	10/08/2009		XT/G	Request for Extension of Time - Granted			0
45	10/08/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
44	04/13/2009		MCTNF	Mail Non-Final Rejection			0
43	04/13/2009		CTNF	Non-Final Rejection			0
41	01/15/2009		FWDX	Date Forwarded to Examiner			0
40	12/23/2008	09/24/2008	A...	Response after Non-Final Action		90	38
39	12/23/2008		XT/G	Request for Extension of Time - Granted			0
38	06/24/2008	04/20/2008	MCTNF	Mail Non-Final Rejection	65		31
37	06/20/2008		CTNF	Non-Final Rejection			0
30	04/10/2008		MNRAB	Mail Notice of Rescinded Abandonment			0
32	04/09/2008		FWDX	Date Forwarded to Examiner			0
29	04/09/2008		NRAB	Notice of Rescinded Abandonment in TCs			0
28	01/04/2008		MPREV	Mail-Petition to Revive Application - Granted			0
27	01/04/2008		PREV	Petition to Revive Application - Granted			0
31	12/20/2007		ELC.	Response to Election / Restriction Filed			0
26	12/20/2007		PET.	Petition Entered			0
24	10/18/2007		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
23	10/15/2007		ABN2	Aband. for Failure to Respond to O. A.			0
22	04/04/2007	11/14/2005	MCTRS	Mail Restriction Requirement	506		-1
21	03/30/2007		CTRS	Requirement for Restriction / Election			0
20	06/28/2005		DOCK	Case Docketed to Examiner in GAU			0
19	05/12/2005		DOCK	Case Docketed to Examiner in GAU			0
18	11/22/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
17	11/22/2004		DOCK	Case Docketed to Examiner in GAU			0
13	10/27/2004		WROIPE	Application Return from OIPE			0
12	10/27/2004		ROIPE	Application Return TO OIPE			0

10	10/27/2004	COMP	Application Is Now Complete	0
11	10/26/2004	WROIPE	Application Return from OIPE	0
9	10/26/2004	ROIPE	Application Return TO OIPE	0
8	10/26/2004	OIPE	Application Dispatched from OIPE	0
7	10/26/2004	COMP	Application Is Now Complete	0
6	10/19/2004	L194	Cleared by OIPE CSR	0
5	10/19/2004	CLSS	CASE CLASSIFIED BY OIPE	0
4	09/30/2004	SCAN	IFW Scan & PACR Auto Security Review	0
3	09/27/2004	CRFE	CRF Is Good Technically / Entered into Database	0
35	09/14/2004	IDSC	Information Disclosure Statement considered	0
16	09/14/2004	RCAP	Reference capture on IDS	0
15.7	09/14/2004	M844	Information Disclosure Statement (IDS) Filed	0
15	09/14/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
14	09/14/2004	A.PE	Preliminary Amendment	0
2	09/14/2004	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
1	09/14/2004	IEXX	Initial Exam Team nn	0

Export to: Excel

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KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Application of	:
Khvorova et al.	:
Application Number: 10/940,892	: DECISION ON PETITIONS
Filing Date: 09/14/2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket Number: DHARMA 2100-US	:

This is a decision on the petition, filed on September 27, 2011, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed application data sheet (ADS).

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120, and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional

application must have been filed within twelve months of the filing date of the prior-filed provisional application.

The petition is dismissed because it is noted that that intermediate Application No. 10/714,333, filed on November 14, 2003, fails to claim benefit under 35 U.S.C. § 119(e) of prior-filed provisional Application No. 60/427,137, filed on November 14, 2002.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Furthermore, is dismissed because of a lack of at least one common inventor between the prior-filed applications. 37 CFR 1.78(a)(4) states that in order for an nonprovisional or an international application to claim the benefit of a prior-filed provisional application, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In this regard, Application No. 10/714,333, and prior-filed Application No. 60/427,137 do not name at least one inventor in common.

Petitioner should verify that the correct provisional application number is specified on the ADS. As the requirements of 37 CFR 1.78(a)(3) and (a)(6) have not been met, the petition must be dismissed.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Bryan Lin

Bryan Lin
Senior Legal Examiner
PCT Legal Administration

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NOV 16 2011

OFFICE OF PETITIONS

In re Application of	:
Khvorova et al.	:
Application Number: 10/940,892	: DECISION ON PETITIONS
Filing Date: 09/14/004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket Number:	:
DHARMA 2100-US	:

This is a decision on the renewed petition, filed on October 24, 2011, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§365(c), 120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed application data sheet (ADS).

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 365(c), 120, and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed applications, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the international application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 365(c) and 119(e) is accepted as being unintentionally delayed.

37 CFR 1.78(a)(3) and (a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii) and the date the claim was filed was unintentional. Since the statement in the petition varies from the required language, the statement will be construed as the statement required by 37 CFR 1.78(a)(3) and (a)(6). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

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. §§365(c) and 120, and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 1631 for consideration by the examiner of the claim under 35 U.S.C. §§ 365(c), 120, and 119(e) of the prior-filed international and provisional applications.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT : Corrected Filing Receipt

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/940,892	09/14/2004	1631	1692	DHARMA 2100-US	41	6

CONFIRMATION NO. 7436

CORRECTED FILING RECEIPT

23719
KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK, NY 10022

OC000000050874823

Date Mailed: 11/16/2011

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

Applicant(s)

Anastasia Khvorova, Boulder, CO;
Angela Reynolds, Conifer, CO;
Devin Leake, Boulder, CO;
William Marshall, Boulder, CO;
Steven Read, Denver, CO;
Stephen Scaringe, Lafayette, CO;

Assignment For Published Patent Application

Dharmacon, Inc., Lafayette, CO

Power of Attorney: The patent practitioners associated with Customer Number 23719

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US04/14885 05/12/2004
and is a CIP of 10/714,333 11/14/2003
which claims benefit of 60/502,050 09/10/2003
and claims benefit of 60/426,137 11/14/2002

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

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/940,892**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

METHODS AND COMPOSITIONS FOR SELECTING SIRNA OF IMPROVED FUNCTIONALITY

Preliminary Class

702

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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Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

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SEP 08 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard A. Payne :
Application No. 10/941,232 :
Filed: September 15, 2004 :
Attorney Docket No. 022029-000004 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 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 October 25, 2009. The Notice of Abandonment was mailed April 14, 2010.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3731 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

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11-15-2010

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Patent No. : 7,807,084 B2
Ser. No. : 10/941,438
Inventor(s) : Dirk-Martin Skirha, III, et. al.
Issued :

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
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Post Office Box 1450
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By hand: Customer Service Window
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Osram Sylvania Inc.
100 Endicott Street
Danvers, MA 01923-9956

ej

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)
7269247	2007-09-11	10941471	2004-09-15	5106-11CON

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alfred W. Froebrich/	Date (YYYY-MM-DD)	2012-01-27
Name	Alfred W. Froebrich/	Registration Number	38887

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. 7269247
Issue Date: September 11,2007
Application No. 10941471
Filed: September 15,2004
Attorney Docket No. 5106-11CON

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

This is a decision on the electronic petition, filed January 27,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 27,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GOWLING LAFLEUR HENDERSON LLP (RIM)
160 ELGIN STREET, SUITE 2600
OTTAWA ON K1P 1C3 CA CANADA

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Andrew D. Bocking, et al.	:	
Application No. 10/941,487	:	DECISION GRANTING PETITION
Filed: September 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 08915805US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 7, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 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

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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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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPT.
740 WEST NEW CIRCLE ROAD, BLDG. 082-1
LEXINGTON KY 40550-0999

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OFFICE OF PETITIONS

In re Application of	:	
BELL, et al	:	
Application No. 10/941,493	:	DECISION ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. 2004-0226.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2008, 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 December 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

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

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

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

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

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January 12, 2011

CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Patent No: 7,610,477 B2
Application No: 10/941,594
Applicant: Martin L. Holladay, et al.
Issued: October 27, 2009
Title: **DEPLOYING AND RECEIVING SOFTWARE OVER A NETWORK SUSCEPTIBLE TO MALICIOUS COMMUNICATION**

Request for Certificate of Correction:

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

It is unclear what you are requesting. (In column 8, line 21 delete "internet" and insert Internet therefore).

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

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

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

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McKesson Corporation and Alston & Bird LLP
c/o Alston & Bird LLP
Bank of America Plaza
101 South Tryon St., Suite
Charlotte NC 28280-4000

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JAN 03 2012

OFFICE OF PETITIONS

In re Patent No. 7,860,726 :
Issue Date: December 28, 2010 :
Application No. 10/941,604 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 050704/313900 :

This is a decision on the petition filed December 13, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

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

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OFFICE OF PETITIONS

VINSON & ELKINS L.L.P.
First City Tower,
1001 Fannin Street
Suite 2300
HOUSTON TX 77002-6760

In re Patent No. 7,753,588	: DECISION ON APPLICATION
Janobo Bazbaz	: FOR PATENT TERM
Issued : July 13, 2010	: ADJUSTMENT AND NOTICE OF
Application No. 10/941,728	: INTENT TO ISSUE CERTIFICATE
Filed: September 15, 2004	: OF CORRECTION
Attorney Docket No. POL780/4-007US	:

This is in response to the "Request for Review of Excessive Patent Term Adjustment" filed September 28, 2009, which will be treated as a petition under 37 CFR 1.705(b)[1]. Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

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 **one thousand, five hundred and seventy-five (1,575)days is GRANTED TO THE EXTENT INDICATED HEREIN.**

On June 26, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 953 days. On September 28, 2009, patentees submitted the instant petition. Applicant maintains that the patent term

[1] It is noted that the instant petition was filed on September 28, 2009, prior to the payment of the issue fee. It is further noted that the application has since matured into U.S. Patent No. 7,753,588 and that additional adjustment to the patent term is warranted. This decision is being treated under 37 CFR 1.705(b), notwithstanding. If patentees determine that a petition under 37 CFR 1.705(d) is appropriate, patentees must filed said petition with two months of the date of issuance patent and the petition should be accompanied by the appropriate fee under 37 CFR 1.18(e).

adjustment indicated on the Determination of Patent Term Adjustment is incorrect and states specifically, that:

> Applicant's response to the Restriction Requirement mailed on June 30, 2009 was filed on July 8, 2008, when the response was actually filed on August 27, 2008. Therefore, the grant of 27 days of Patent Term Adjustment from July 8, 2008 until the mailing of the Office Action on December 5, 2008 appears to be in error.

Excerpt taken from "Request for Review of Excessive Patent Term Adjustment" filed September 28, 2009, p 1.

Applicants' argument has been considered, however, a review of the PALM PTA calculation sheet did not reveal a 27 day adjustment to the patent term. The Office does note, however, that the PALM sheet indicates a reply as being filed July 8, 2008, while the Image File Wrapper notes the same reply as being filed August 27, 2008. Because the 27 day adjustment is not presently noted on the PTA calculation sheet in PALM, no changes will be made to the patent term adjustment in this regard.

Further review of the file history reveals that a period of adjustment of 166 days should be entered under 37 CFR 1.702(a)(4)and 37 CFR 1.703(a)(6) for the failure of the Office to issue the patent within four months of the date the issue fee was paid. It is noted that the issue fee was paid September 28, 2009, yet the patent did not issue until July 13, 2010—four months and 166 days after the issue fee was paid. **Thus, it is appropriate to enter a period of adjustment under 37 CFR 1.702(a)(4)and 37 CFR 1.703(a)(6) of 166 days.**

It is noted that a reduction to the patent term of 120 days was entered for the filing of the instant petition. Pursuant to 37 CFR 1.704(e), the filing of the petition under 37 CFR 1.705(b) will not be considered a failure to engage in reasonable prosecution of the application under 37 CFR 1.704(c)(10). **Accordingly, the period of reduction of 120 days is being removed.**

In view thereof, the determination of the patent term adjustment is 1575 days (2,156 days of Office delay - 547 days of overlap - 34 days of applicant delay).

Deposit account 22-0365 will be charged $200.00 for the fee set forth under 37 CFR 1.18(e).

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

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, five hundred and seventy-five (1,575) days**.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,753,588 B2

DATED : Jul. 13, 2010

INVENTOR(S) : Bazbaz

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 (1547) days

Delete the phrase "by 1547 days" and insert – by 1575 days--

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ANDREWS KURTH LLP
111 CONGRESS AVENUE
SUITE 1700
AUSTIN TX 78701

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JUL 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Noel C. BAUMAN et al.	:	
Application No. 10/941,761	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,306,770	:	
Filed: September 15, 2004	:	
Attorney Docket No. OIC009NP / AK 185802		

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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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DEC 29 2011

OFFICE OF PETITIONS

In re Application of
Richard L. Kronenthal
Application No. 10/941,890
Filed: September 16, 2004
Attorney Docket No. 37159-502001US

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. §1.705(b)", filed December 20, 2011. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from 469 days to 648 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is SIX HUNDRED FORTY-EIGHT (648) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 3, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 469 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 179 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on July 6, 2010 after the filing of a response to Final Office Action on February 23, 2011 and for the filing of an Information Disclosure Statement (IDS) on January 23, 2011 after the filing of a response to non-Final Office Action on December 8, 2010.

A review of the record reveals that on February 23, 2010 applicants filed a response to the Final Office action mailed December 23, 2009. Then on July 6, 2010, applicants filed the Information Disclosure Statement (IDS). The review further reveals that on December 8, 2010 applicants filed a response to the non-Final Office action mailed September 13, 2009. Then on January 23, 2011, applicants filed the Information Disclosure Statement (IDS). Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution. The record does not support a conclusion that the IDS was expressly requested by the examiner. Accordingly, filing of the IDS may be considered a failure to engage and a proper basis for reduction.

[1] PALM records indicate that the Issue Fee was also received on December 20, 2011.

However, the record supports a conclusion that the IDS received July 6, 2010 and the IDS received January 23, 2011, were both received with a 37 CFR 1.704(d) statement.

> 37 CFR 1.704(d) provides that a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered (result in a reduction) under 37 CFR 1.704(c)(6), 1.704(c)(8), 1.704(c)(9), or 1.704(c)(10) if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This provision will permit applicants to submit information first cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is promptly (within thirty days of receipt of the first communication) submitted to the Office. Compliance with the statement requirement of 37 CFR 1.704(d) does not substitute for compliance with any relevant requirement of 37 CFR 1.97 or 1.98. 37 CFR 1.704(d) also provides that this thirty-day period is not extendableeply was expressly requested by the examiner, within the meaning of § 1.704(c)(8). Accordingly, no reduction is warranted.

In view thereof, no reduction should have been taken for the filing of the IDS' after the mailing of the response to the Final Office Action on July 6, 2010 and the response to the non-Final Office Action on January 23, 2011.

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Patent Term Adjustments

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

Application Number*: 10941890 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10941890

Application Filing Date	09/16/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1035
A Delays	1035	PTO Manual Adjustment	179
B Delays	0	Applicant Delay (APPL)	566
C Delays	0	Total PTA (days)	648

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
153	12/27/2011		P028	Adjustment of PTA Calculation by PTO	46		0
152	12/27/2011		P028	Adjustment of PTA Calculation by PTO	133		0
145	10/03/2011		MN/=.	Mail Notice of Allowance			0
144	09/30/2011		OAR	Office Action Review			0
143	09/30/2011		OAR	Office Action Review			0
142	09/30/2011		OAR	Office Action Review			0
141	09/30/2011		OAR	Office Action Review			0
140	09/30/2011		IREV	Issue Revision Completed			0
139	09/30/2011		N/=.	Notice of Allowance Data Verification Completed			0
138	09/30/2011		DOCK	Case Docketed to Examiner in GAU			0
137	09/30/2011		OAR	Office Action Review			0
136	09/30/2011		OAR	Office Action Review			0
135	09/30/2011		OAR	Office Action Review			0
134	09/30/2011		OAR	Office Action Review			0
133	09/30/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
130	09/28/2011		EX.R	Reasons for Allowance			0
129	09/28/2011		EX.A	Examiner's Amendment Communication			0
128	09/28/2011		CNTA	Allowability Notice			0
132	09/27/2011		DVER	Document Verification			0
131	09/22/2011		EXIE	Interview Summary - Examiner Initiated			0
125	09/19/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
122	09/08/2011		FWDX	Date Forwarded to Examiner			0
119	09/08/2011		ABN9	Disposal for a RCE / CPA / R129			0
127	08/17/2011		IDSC	Information Disclosure Statement considered			0
124	08/17/2011		DIST	Terminal Disclaimer Filed			0
123	08/17/2011		M844	Information Disclosure Statement (IDS) Filed			0
121	08/17/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
120	08/17/2011	06/01/2011	RCEX	Request for Continued Examination (RCE)		77	104
118	08/17/2011		XT/G	Request for Extension of Time - Granted			0
117	08/17/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
116	08/17/2011		BRCE	Workflow - Request for RCE - Begin			0
126	05/19/2011		IDSC	Information Disclosure Statement considered			0
115	05/19/2011		RCAP	Reference capture on IDS			0
114	05/19/2011		M844	Information Disclosure Statement (IDS) Filed			0
105	05/19/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
104	03/01/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
103	02/28/2011		CTFR	Final Rejection			0
101	01/23/2011		IDSC	Information Disclosure Statement considered			0
100	01/23/2011		RCAP	Reference capture on IDS			0
99	01/23/2011	12/08/2010	M844	Information Disclosure Statement (IDS) Filed		46	93
98	01/23/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
94	12/14/2010		FWDX	Date Forwarded to Examiner			0
113	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
112	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
111	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
110	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
109	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
108	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
107	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
106	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
102	12/08/2010		IDSC	Information Disclosure Statement considered			0
97	12/08/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
96	12/08/2010		RCAP	Reference capture on IDS			0
95	12/08/2010		M844	Information Disclosure Statement (IDS) Filed			0
93	12/08/2010		A...	Response after Non-Final Action			0

92	12/08/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
91	09/13/2010	06/23/2010	MCTNF	Mail Non-Final Rejection	82		81
90	09/11/2010		CTNF	Non-Final Rejection			0
89	07/06/2010		IDSC	Information Disclosure Statement considered			0
88	07/06/2010	02/23/2010	M844	Information Disclosure Statement (IDS) Filed		133	81
87	07/06/2010		RCAP	Reference capture on IDS			0
86	07/06/2010		M844	Information Disclosure Statement (IDS) Filed			0
85	07/06/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
83	02/26/2010		FWDX	Date Forwarded to Examiner			0
80	02/26/2010		ABN9	Disposal for a RCE / CPA / R129			0
82	02/23/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
81	02/23/2010	12/23/2009	RCEX	Request for Continued Examination (RCE)		62	61
79	02/23/2010		XT/G	Request for Extension of Time - Granted			0
78	02/23/2010		BRCE	Workflow - Request for RCE - Begin			0
77	02/19/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
76	02/16/2010		CTAV	Advisory Action (PTOL-303)			0
73	01/29/2010		IDSC	Information Disclosure Statement considered			0
72	01/29/2010		EIDS.	Electronic Information Disclosure Statement			0
71	01/29/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
70	01/26/2010		FWDX	Date Forwarded to Examiner			0
69	01/25/2010		A.NE	Amendment after Final Rejection			0
68	01/25/2010		XT/G	Request for Extension of Time - Granted			0
74	12/10/2009		IDSC	Information Disclosure Statement considered			0
67	12/10/2009		EIDS.	Electronic Information Disclosure Statement			0
65	12/10/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
75	11/23/2009		IDSC	Information Disclosure Statement considered			0
66	11/23/2009		EIDS.	Electronic Information Disclosure Statement			0
64	11/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
61	09/23/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
60	09/22/2009		CTFR	Final Rejection			0
62	08/27/2009	06/08/2009	EIDS.	Electronic Information Disclosure Statement		80	52
58	08/27/2009		IDSC	Information Disclosure Statement considered			0
57	08/27/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
63	08/05/2009		LET.	Miscellaneous Incoming Letter			0
59	08/05/2009		IDSC	Information Disclosure Statement considered			0
56	08/05/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
55	07/22/2009		FWDX	Date Forwarded to Examiner			0
53	07/22/2009		FWDX	Date Forwarded to Examiner			0
54	07/13/2009		SA..	Supplemental Response			0
50	07/08/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
49	07/02/2009		C.AD	Correspondence Address Change			0
52	06/08/2009	03/08/2009	A...	Response after Non-Final Action		92	46
51	06/08/2009		XT/G	Request for Extension of Time - Granted			0
46	12/08/2008		MCTNF	Mail Non-Final Rejection			0
45	12/05/2008		CTNF	Non-Final Rejection			0
48	11/17/2008		RCAP	Reference capture on IDS			0
47	11/17/2008	09/02/2008	M844	Information Disclosure Statement (IDS) Filed		76	33
44	11/17/2008		IDSC	Information Disclosure Statement considered			0
37	11/17/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
36	10/15/2008		DOCK	Case Docketed to Examiner in GAU			0
35	10/03/2008		DOCK	Case Docketed to Examiner in GAU			0
34	10/01/2008		FWDX	Date Forwarded to Examiner			0
33	09/02/2008		ELC.	Response to Election / Restriction Filed			0
32	07/29/2008		MW/AC	Mail Notice of Withdrawn Action			0
31	07/29/2008		MCTRS	Mail Restriction Requirement			0
30	07/28/2008		CTRS	Restriction/Election Requirement			0
29	07/28/2008		W/AC	Withdrawing/Vacating Office Action Letter			0
27	07/17/2008		C.AD	Correspondence Address Change			0
28	07/14/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
26	06/26/2008	11/16/2005	MCTRS	Mail Restriction Requirement	953		0.5
25	06/23/2008		CTRS	Restriction/Election Requirement			0
24	04/23/2008		DOCK	Case Docketed to Examiner in GAU			0
43	11/05/2007		IDSC	Information Disclosure Statement considered			0
23	11/05/2007		RCAP	Reference capture on IDS			0
22	11/05/2007		M844	Information Disclosure Statement (IDS) Filed			0
21	11/05/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
42	04/18/2006		IDSC	Information Disclosure Statement considered			0
20	04/18/2006		RCAP	Reference capture on IDS			0
19.7	04/18/2006		M844	Information Disclosure Statement (IDS) Filed			0
19	04/18/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
41	11/16/2005		IDSC	Information Disclosure Statement considered			0
18	11/16/2005		RCAP	Reference capture on IDS			0
17.7	11/16/2005		M844	Information Disclosure Statement (IDS) Filed			0
17	11/16/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
16	02/03/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	02/03/2005		DOCK	Case Docketed to Examiner in GAU			0
14	12/17/2004		WROIPE	Application Return from OIPE			0
13	12/17/2004		ROIPE	Application Return TO OIPE			0
11	12/17/2004		COMP	Application Is Now Complete			0
12	12/16/2004		OIPE	Application Dispatched from OIPE			0
10	12/09/2004		ADDFLFEE	Additional Application Filing Fees			0
9	12/09/2004		CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems			0
5	11/19/2004		L128	Cleared by L&R (LARS)			0
4	10/20/2004		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	10/20/2004		CLSS	CASE CLASSIFIED BY OIPE			0
2	10/05/2004		SCAN	IFW Scan & PACR Auto Security Review			0
1	09/16/2004		IEXX	Initial Exam Team nn			0
0.5	09/16/2004		EFILE	Filing date			0

Export to: Excel

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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)
7,030,015	2006-04-18	10/941,939	2004-09-16	LKSP0115USA

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/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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P.O. Box 1450
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In re Patent No. 7030015
Issue Date: April 18,2006
Application No. 10941939
Filed: September 16,2004
Attorney Docket No. 0941-1041PUS1

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

This is a decision on the electronic petition, filed April 3,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 3,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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TAROLLI, SUNDHEIM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND OH 44114

MAILED
MAY 23 2011
OFFICE OF PETITIONS

Patent No. 7,002,754	:	
Application No. 10/941,986	:	
Filed: September 16, 2004	:	ON PETITION
Issued: February 21, 2006	:	
Attorney Docket No. 102-009-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2011, which is being properly treated 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**.

The patent issued February 21, 2006. The last day of the grace period for paying the 3.5-year maintenance fee was February 21, 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.

As the Power of Attorney was only recently given to the petitioner, 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 1.378 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.

Further, since the language regarding the delay in the instant petition is directed towards 37 CFR 1.137(b), the statement is being construed as the statement required by 37 CFR 1.378(c) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
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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)
7299480	2007-11-20	10941990	2004-09-16	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 7299480
Issue Date: November 20,2007
Application No. 10941990
Filed: September 16,2004
Attorney Docket No. 26372U

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

This is a decision on the electronic petition, filed March 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/12/10 **Paper No.:** —

TO SPE OF : ART UNIT 2442

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/942081 Patent No.: RE41750E

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: _____

Glenton Burgess Digitally signed by Glenton Burgess DN: cn=Glenton Burgess, c=US, o=uspto, ou=2442, email=glenton.burgess@uspto.gov Date: 2011.07.25 13:57:07 -04'00'

/Douglas Blair/ 07/22/2011

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DANIEL B. SCHEIN, PH.D., ESQ., INC.
P. O. BOX 68128
VIRGINIA BEACH VA 23471

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,275,541	:	
Issued: October 2, 2007	:	
Application No. 10/942,230	:	ON PETITION
Filed: September 16, 2004	:	
Attorney Docket Number: 10437-81	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 24, 2011.

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

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Marcelo S. Copat
Baker & Daniels LLP
300 North Meridian Street, Suite 2700
Indianapolis, Indiana 46204

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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COOL PATENT, P.C.
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/02/2010

Applicant	: Jian Lin	: DECISION ON REQUEST FOR
Patent Number	: 7653164	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/942,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1463** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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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)
7066166	2006-06-27	10942282	2004-09-16	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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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	/will lee crites, jr./	Date (YYYY-MM-DD)	2010-08-11
Name	Will Lee Crites, Jr.		

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. 7066166
Issue Date: June 27,2006
Application No. 10942282
Filed: September 16,2004
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
Love et al. : DECISION ON PETITION
Application No. 10/942,570 :
Filed: September 16, 2004 :
Attorney Docket No. CS25647RL :

This is a decision on the PETITION UNDER 37 CFR 1.137(b) filed April 13, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed July 22, 2010. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective October 23, 2010. A courtesy Notice of Abandonment was mailed on February 17, 2011.

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

Technology Center AU 2618 has been advised of this decision. The application is forwarded to the examiner for consideration of the amendment submitted on petition filed April 13, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of :
Patariu et al. : DECISION ON APPLICATION
Application No. 10/942,657 : FOR
Filed: September 16, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 15494US02 :
Title: PACKETIZATION OF NON-MPEG :
STREAM DATA IN SYSTEMS USING :
ADVANCED MULTI-STREAM POD INTERFACE :

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 January 10, 2011. Applicants request that the determination of patent term adjustment be increased by six hundred and seventy-six (676) days to one thousand, one hundred and eighty-four (1184) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants contend that one period of adjustment for applicant delay pursuant to 37 C.F.R. § 1.704(b) should be zero days, and not 32 days.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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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.

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

On May 21, 2008, a non-final Office action was mailed. The Office action contained a Requirement for Information pursuant to 37 C.F.R. § 1.105, requiring Applicants to provide "Broadcom BCM7100' and other Broadcom products," so that the Examiner could better make a prior sale determination pursuant to 35 U.S.C. § 102(b). On August 18, 2008, the Office mailed a miscellaneous communication to Applicants, which included a copy of the "Broadcom BCM7100" product literature. Applicants responded to the May 21, 2008 non-final Office action on September 22, 2008, which is three month and thirty-two days after the mailing of the non-final Office action. As such, a reduction of 32 days was assessed pursuant to 37 C.F.R. § 1.704(b), which indicates, in pertinent part:

> "...an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed."

With this petition, Applicants argue that the mailing of the August 18, 2008 communication "should have restarted the (three-month Rule 1.704(b)) period for response,"[2] and as such, since the September 22, 2008 response was received less than three months after the mailing of the August 18, 2008 communication, the September 22, 2008 response did not constitute a failure to engage in reasonable efforts to conclude processing or examination of an application, and no reduction is warranted.

Applicants' argument is not persuasive. The mailing of a copy of previously requested product literature had the effect of withdrawing the previously made Rule 1.105 requirement as it applies to that article of literature. The withdrawal of the requirement placed no additional burden on Applicants, and it

[2] Petition, page 3.

did not result in Applicants being given another three months to respond to the non-final Office action.

Moreover, the fact that the Office mailed a communication subsequent to the mailing of the non-final Office action of May 21, 2008 does not alter the fact that on May 21, 2008, the Office mailed a "notice or action by the Office making any rejection, objection, argument, or other request," within the meaning of 37 C.F.R. § 1.704(b). As such the three-month period set forth in Rule 1.704(b) runs from that date.

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 C.F.R. 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 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 matter should be directed to the undersigned (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior 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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NSIP LAW
PO BOX 34688
WASHINGTON DC 20043

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung, et al.	:	
Application No. 10/942,813	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 1101.0114C	:	

This is a decision on the petition filed on August 12, 2011, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed May 21, 2008 be withdrawn.

The petition is **GRANTED**.

Petitioner requests that the terminal disclaimer filed May 21, 2008 be withdrawn.

A review of the terminal disclaimer indicates it contains the language "the legal title to said patent shall be the same as the legal title...". The language required by 37 CFR 1.321(c)(3) is the phrase "commonly owned". Since the terminal disclaimer filed May 21, 2008 fails to contain the phrase "commonly owned", the terminal disclaimer is disapproved. In view thereof, the terminal disclaimer is withdrawn.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power

of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Group Art Unit 2426, where the Examiner is directed to withdraw the terminal disclaimer filed May 21, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: NSIP Law
1156 15th Street NW
Suite 603
Washington, DC 20005

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P.O. BOX 1450
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FOR: TYCO FIRE SUPPRESSION & BUILDING PRODUCTS
PERKINS COIE LLP
607 Fourteenth Street, NW
Washington DC 20005-2003

MAILED
AUG 31 2010
OFFICE OF PETITIONS

In re Application of	:	
Golinveaux, et al.	:	
Application No. 10/942,817	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 34013:E/3 (-8003.US00)	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed June 24, 2010, to change the order of the names of the inventors.

Office records have been corrected to reflect the change in the order of the named inventors set forth in the Application Data Sheet. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

Receipt is acknowledged of the $400 fee for the petition under 37 CFR 1.182.

This application is being referred to Technology Center AU 2857 for examination in due course.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/942,817	09/17/2004	2857	5670	34013:E/3 (-8003.US00)	40	3

CONFIRMATION NO. 4277

CORRECTED FILING RECEIPT

60708
FOR: TYCO FIRE SUPPRESSION & BUILDING PRODUCTS
PERKINS COIE LLP
607 Fourteenth Street, NW
Washington, DC 20005-2003

OC000000043251563

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)

James Golinveaux, Kingstown, RI;
Alexander Nikolayev, Newtown, PA;
Michael Flax, Chicago, IL;
Vitaly Kabashnikov, Minsk, BELARUS;
Michael Mahomet, Lansdale, PA;
Valeri Mourachko, Philadelphia, PA;
Leonid Nikolaychik, Mequon, WI;
Thomas Prymak, Doylestown, PA;
Valery Popov, Minsk, BELARUS;
Andrey Bril, Minsk, BELARUS;
Valery Babenko, Minsk, BELARUS;
Valery Sosinovich, Residence Not Provided, Deceased;
WISDOM ZOYA-SOSINOVICH, MINSK, BELARUS, Legal Representative;

Power of Attorney:
Montgomery Smith--31141
David Laub--38708
William Dee--46657

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/15666 05/20/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/942,817**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

SYSTEM AND METHOD FOR EVALUATION OF FLUID FLOW IN A PIPING SYSTEM

Preliminary Class

702

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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THE PROCTER & GAMBLE COMPANY
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CINCINNATI OH 45202

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Moese, et al.	:	
Application No. 10/943,114	:	DECISION
Filed/Deposited: 16 September, 2004	:	
Attorney Docket No. 9743	:	

This is a decision on the papers filed on 28 June, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

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

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

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

As to the Allegations
of Unintentional Delay

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

Petitioner does not appear to have satisfied the requirements under the Rule.

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 2 March, 2010, with reply due absent an extension of time on or before 2 June, 2010.

The application went abandoned by operation of law after midnight 2 June, 2010.

The Office mailed the Notice of Abandonment on 14 September, 2010.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, but no reply—though Petitioner suggested that a reply was to be in the form of an Interview Summary, the non-final Office action requires a reply in the form of an amendment, and thus there appears to have been no reply submitted.

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

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.[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]

---

[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.

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]))

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

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

Petitioner failed to satisfy the requirements under the Rule.

CONCLUSION

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

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

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

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

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.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Application of	:	
Moese, et al.	:	
Application No. 10/943,114	:	DECISION
Filed/Deposited: 16 September, 2004	:	
Attorney Docket No. 9743	:	

This is a decision on the papers filed on 8 November, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 2 March, 2010, with reply due absent an extension of time on or before 2 June, 2010.

The application went abandoned by operation of law after midnight 2 June, 2010.

Application No. 10/943,114

The Office mailed the Notice of Abandonment on 14 September, 2010.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, but no reply—though Petitioner suggested that a reply was to be in the form of an Interview Summary, the non-final Office action required a reply in the form of an amendment, and no reply was submitted. The petition was dismissed on 8 August, 2011.

On 8 November, 2011, Petitioner submitted a request and fee for extension of time and re-advanced the petition, this time providing a reply in the form of an amendment, in addition to the previously submitted petition, fee and statement of unintentional delay.

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

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

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

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

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

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 3623 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

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unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] 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).

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[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 7TH AVENUE
14TH FLOOR
NEW YORK, NY 10018

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application:	:	
Baichwal et al.	:	
Application No. 10/943,356	:	NOTICE
Filed: September 17, 2004	:	
Attorney Docket No. 540.1105US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on February 7, 2011 and supplemented on March 9, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MR. CHRISTOPHER JOHN ROURK
JACKSON WALKER LLP
901 MAIN STREET, SUITE 6000
DALLAS, TX 75202

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
Paul D. Guthrie et al :
Application No. 10/943,495 :
Filed: September 17, 2004 :
Attorney Docket No. 101217.00040 :

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 19, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 20, 2010. See MPEP 1215.04.

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

This matter is being referred to Technology Center AU 2437 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MAR 28 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,855,318	:
Xu	: DECISION ON REQUEST FOR
Issue Date: December 21, 2010	: RECONSIDERATION OF
Application No. 10/943,507	: PATENT TERM ADJUSTMENT
Filed: September 17, 2004	:
Attorney Docket No. 20210-066001	:
Title: CLONING OF CYTOCHROME P450 GENES FROM NICOTIANA	:

This is a decision on the petition filed on February 22, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred eighteen (318) days.

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

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 367 (279 + 1 + 87) days. .

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 224 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 18, 2007 and ends on April 28, 2008, the day before the RCE was filed, and is 224 days. See 35 U.S.C. 154(b)(1)(B)(i).

Patentees' delay total 438 days.

In view thereof, the patent is entitled to an overall adjustment of 153 days.

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

The Office 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

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

In re Patent No. 7,855,318	:
Xu	: DECISION ON REQUEST FOR
Issue Date: December 21, 2010	: RECONSIDERATION OF
Application No. 10/943,507	: PATENT TERM ADJUSTMENT
Filed: September 17, 2004	:
Attorney Docket No. 20210-066001	:
Title: CLONING OF CYTOCHROME P450 GENES FROM NICOTIANA	:

This is a decision on the "RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT" filed May 16, 2011. Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be corrected from 153 days to 318 days.

Patentee also requests that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Abbott Biotherapeutics Corp v. Kappos, 1:2010cv01853 (D.D.C. 2010). There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The petition to change patent term adjustment determination under 35 U.S.C. § 154(b) from 153 days to a 318 days is **DENIED.**

BACKGROUND

On December 21, 2010, the above-identified application matured into U.S. Patent No. 7,855,318, with a revised patent term adjustment of 153 days. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on April 14, 2010,

thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 252 day period from April 14, 2010 (the mailing date of the Notice of Allowance) until December 21, 2010 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 252 days and be increased from 224 to 476 days. Patentee concludes that the correct patent term adjustment is 318 days (the sum of 367 days of "A delay" and 476 days of "B delay" minus 87 days of overlap between "A delay" and "B delay minus 438 days of applicant delay").

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 224 days based on the application having been filed under 35 U.S.C. 111(a) on September 17, 2004 and the patent not having issued as of the day after the three year date, September 18, 2007, and a request for continued examination under 132(b) having been filed on April 29, 2008. In other words, the 252-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where

[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

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

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

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a

limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

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

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

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

accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 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)[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"

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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.

refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

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

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written

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

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

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37

CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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

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

CONCLUSION

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the above-identified patent is not entitled to a patent term extension or adjustment of 318 days. Therefore, the petition to change the

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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.

patent term adjustment indicated on the above-identified patent to 318 days is **denied**.

This decision may be viewed as final agency action. *See* MPEP § 1002.02(b).

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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

In re Patent No. 7,855,318 Issued: December 21, 2010 Application No. 10/943,507 Filed: September 17, 2004 Attorney Docket No.: 202210-066001 For: CLONING OF CYTOCHROME P450 GENES FROM NICOTIANA	FINAL AGENCY DECISION ON REQUEST TO INVOKE THE SUPERVISORY AUTHORITY OF THE DIRECTOR

This decision on the "PETITION UNDER 37 C.F.R. §1.181 (a)(3) TO INVOKE THE SUPERVISORY AUTHORITY OF THE DIRECTOR," filed November 14, 2011, requesting that the Director review the Final Agency Decision on Request for Reconsideration of Decision on Application for Patent Term Adjustment ("Decision") mailed by the Office of Petitions on September 13, 2011.

The Decision maintains that the above-identified patent is entitled to one hundred fifty-three (153) days of patent term adjustment ("PTA"). Patentees request that the Director review the decision and modify the PTA calculation to three hundred eighteen (318) days.

The decision of the Director of the Office of Petitions has been reviewed. However, because no error has been found in the decision, the petition under 37 CFR 1.181 is **DENIED**.

The patent term adjustment remains 153 days, as indicated in the final agency decision of September 13, 2011. The patent is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred fifty-three (153)** days.

Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

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In re Patent No. 7037725
Issue Date: May 2,2006
Application No. 10943521
Filed: September 17,2004
Attorney Docket No. SPECT 3.0-006 CONT

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

This is a decision on the electronic petition, filed February 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 February 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)
7037725	2006-05-02	10943521	2004-09-17	SPECT 3.0-006 CON

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kelly Y. Hwang/	Date (YYYY-MM-DD)	2012-02-09
Name	Kelly Y. Hwang	Registration Number	51831

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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APR 08 2011
OFFICE OF PETITIONS

In re Application of	:	
SIM-TANG	:	
Application No. 10/943,541	:	NOTICE
Filed: September 17, 2004	:	
Attorney Docket No. 50439-P019US	:	

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Decision Date : April 21,2011

In re Application of :

Siew Sim-Tang

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10943541

Filed : 17-Sep-2004

Attorney Docket No : 50439-P019US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 21,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2165 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	10943541
Filing Date	17-Sep-2004
First Named Inventor	Siew Sim-Tang
Art Unit	2165
Examiner Name	MICHAEL HICKS
Attorney Docket Number	50439-P019US
Title	EXTRACTING DATA CHANGES AND STORING DATA HISTORY TO ALLOW FOR INSTANTANEOUS ACCESS TO AND RECONSTRUCTION OF ANY POINT-IN-TIME DATA

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	/Matthew J. Mattson/
Name	Matthew J. Mattson
Registration Number	65973

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MAR 21 2011

OFFICE OF PETITIONS

Kenyon & Kenyon LLP
One Broadway
New York, New York 10004

In re Application of	:	
Volkmar SCHARF-KATZ et al.	:	ON PETITION
Application No. 10/943,557	:	
Filed: 17 September 2004	:	
Atty. Docket No.: 2345/204	:	

This is a decision on the petitions, filed January 4, 2011, under 37 CFR 1.181, to withdraw the holding of abandonment, and under 37 CFR 1.137(b) to revive the above-identified application.

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

The petition is under 37 CFR 1.37(b) is **DISMISSED** as moot.

The above-identified application was held abandoned for failure to file a timely reply to an Advisory Action mailed June 25, 2010. A Notice of Abandonment was mailed January 3, 2011.

Petition asserts that the Notice of Abandonment mailed May 23, 2005 be withdrawn as it was premature because a Notice of Appeal and fee was filed June 4, 2010 and therefore with a five (5) month extension of time a response was not due until January 4, 2011, the same date which petitioner filed a five (5) month extension of time, a Request for Continued Examination (RCE), the RCE fee required under 37 CFR 1.17(e), and the submission required under 37 CFR 1.114.

At the outset, it is noted that failure to respond to an Advisory Action is not a proper reason for abandonment of an application. In any event, petitioner timely filed a proper RCE request. Accordingly, the Notice of Abandonment mailed January 3, 2011 is withdrawn as premature.

Furthermore, in view of the above decision, the petition under 37 CFR 1.137(b) is unnecessary. Accordingly, the $1620 petition fee submitted with the petition on January 4, 2011 is to be refunded to petitioner's Deposit Account No. 11-0600.

The application is being referred to the Technology Center AU 2617 for further processing in accordance with the above decision.

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

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

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809 CORPORATE WAY
FREMONT CA 94539

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
SAGER et al.	:	DECISION ON APPLICATION
Application No. 10/943,658	:	FOR
Filed: September 18, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. NSL-035	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed May 24, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1037 days, not 336 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, it appears that applicants are disputing the periods of reduction of 92 days, 94 days, and 92 days for applicant delay pursuant to 37 CFR 1.704(b).

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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 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 § 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].

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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.

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

It appears that applicants are disputing the periods of reduction of 92 days, 94 days, and 92 days for applicant delay pursuant to 37 CFR 1.704(b); however, applicants do not state any basis for their disagreement. Rather, applicants simply state: "There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704." *Petition p. 2.*

A review of the application history confirms that the periods of reduction of 92 days, 94 days, and 92 days for applicants' delay are correct.

Specifically, applicants were properly assessed a delay of 92 days for filing a response on January 25, 2008, to the Office action of July 25, 2007. Applicants did not file a reply to the non-final Office action until January 25, 2008, three months and 92 days from the mail date of the office action. Thus, applicant failed to engage in reasonable efforts to conclude processing or examination of this application. The period of adjustment was properly reduced by 92 days, counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the non-final Office action, October 26, 2007, ending on the date the reply was filed, January 25, 2008. See 37 CFR 1.704(b). Accordingly, the period of reduction of 92 days will remain.

Applicants were properly assessed a delay of 94 days for filing a response on November 24, 2008, to the Office action of May 22, 2008. Applicants did not file a reply to the final Office action until November 24, 2008, three months and 94 days from the mail date of the office action. Thus, applicant failed to engage in reasonable efforts to conclude processing or examination of this application. The period of adjustment was properly reduced by 94 days, counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, August 23, 2008, ending on the date the reply was filed, November 24, 2008. See 37 CFR 1.704(b). Accordingly, the period of reduction of 94 days will remain.

Applicants were properly assessed a delay of 92 days for filing a response on November 4, 2009, to the Office action of May 4, 2009. Applicants did not file a reply to the non-final Office action until November 4, 2009, three months and 92 days from the mail date of the office action. Thus, applicant failed to engage in reasonable efforts to conclude processing or examination of this application. The period of adjustment was properly reduced by 92 days, counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the non-final Office action, August 5, 2009, ending on the date the reply was filed, November 4, 2009. See 37 CFR 1.704(b). Accordingly, the period of reduction of 92 days will remain.

Finally, applicants assert that the "§ 1.703(a)(2) adjustment is **-10** days based on a response + 4 month date of March 4, 2010 and a Notice of Allowance Date of February 22, 2010." *Petition p. 2*. However, a review of the application history reveals that a reduction of 10 days is not warranted.

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 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).

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 matter should be directed to the undersigned (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 2, 2012

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/943692, Patent No.:6984055

Co f C mailroom date: 11-11-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

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

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

Comments: _____

/Diane Lee/ — **SPE**

2875 — **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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Cong Dinh
Application No. 10/943,739
Filed: September 17, 2004
Attorney Docket No. T & B 1757

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed August 18, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Michael L. Hoelter does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the 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: Michael L. Hoelter
3045 Country Place Drive E.
Collierville, TN 38017

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

MAILED
JAN 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Robert K. Gieseler et al	:	
Application No. 10/943,758	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No.: 021069-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 16, 2011.

The request is **NOT APPROVED**.

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

The request is filed by Marianne Fuierer on behalf of the practitioners of record associated with Customer Number 24239.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since a current correspondence address was not provided.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK NC 27709

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Application of	:	
Robert K. Gieseler et al	:	
Application No. 10/943,758	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 021069-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 13, 2012.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is 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.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

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

Telephone inquires concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/21/11

TO SPE OF : ART UNIT 2478

SUBJECT : Request for Certificate of Correction for Appl. No.: 10944062 Patent No.: 7844669

CofC mailroom date: 03/15/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

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

Au 2478

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

SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER CO 80202

MAILED
MAR 23 2011
OFFICE OF PETITIONS

In re Application of :
Chan et al. :
Application No. 10/944,096 :
Filed: September 17, 2004 :
Attorney Docket No. 4366-200 :

ON PETITION

This is a decision on the petition, filed March 11, 2011, under 37 CFR 1.47(a), which is being treated under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is **granted** to the extent *infra*.

Deposit account 19-1970 will be charged the $400.00 petition fee.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventors Chan, Gentle and Orbach have agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to September 1, 2004.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question.[1] Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Rankine to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being referred to Technology Center AU 2438 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3215.

[1] If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate. *See* MPEP 715.04(C).

Inquiries concerning the examination or status of the application should be directed to the Technology Center.

Charlema Grant
Petitions Attorney
Office of Petitions
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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April 5, 2011

Christine Hartness
CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Patent No: 7,493,297 B2
Application No: 10/944,142
Applicant: Dimitris Achlioptas, Jr., et al.
Issued: February 17, 2009
Title: **METHODS AND SYSTEMS FOR COMPUTING SINGULAR VALUE DECOMPOSITIONS OF MATRICES AND LOW RANK APPROXIMATIONS OF MATRICES**

Request for Certificate of Correction:

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

Inspection of the application for the patent reveals that column 16, line 22, in the patent, is printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

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

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Gregory G. Rose, et al.	:	
Application No. 10/944,155	:	DECISION ON PETITION
Filed: September 16, 2004	:	
Attorney Docket No. 040082	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 31, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 29, 2010. Accordingly, the date of abandonment of this application is February 1, 2011. The Notice of Abandonment was mailed February 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 11,2011

In re Application of :

Gregory Rose

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10944155

Filed : 16-Sep-2004

Attorney Docket No : 040082

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2436 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10944155
Filing Date	16-Sep-2004
First Named Inventor	Gregory Rose
Art Unit	2436
Examiner Name	DAVID CERVETTI
Attorney Docket Number	040082
Title	METHOD AND APPARATUS FOR AUTHENTICATION IN WIRELESS COMMUNICATIONS

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	/Abdollah Katbab/
Name	Abdollah Katbab
Registration Number	45325

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)
7310912	2007-12-25	10944167	2004-09-16	1104-012

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Glen L. Gross/	Date (YYYY-MM-DD)	2012-02-01
Name	Glen L. Gross	Registration Number	41808

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7310912
Issue Date: December 25,2007
Application No. 10944167
Filed: September 16,2004
Attorney Docket No. 3112.111

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

This is a decision on the electronic petition, filed February 1,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 1,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
SEP 07 2010
OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 10/944,277 : LETTER REGARDING
Filed: September 20, 2004 : PATENT TERM ADJUSTMENT
Docket No. 2298.0030000/EKS/VSR :
Title: HYBRID HEPATOCYTE GROWTH :
FACTOR GENE HAVING HIGH EXPRESSION :
EFFICIENCY OF TWO HETEROTYPES OF :
HEPATOCYTE GROWTH FACTOR :

This is in response to the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(B)," filed November 20, 2009. Applicant requests that the determination of patent term adjustment be increased by one hundred and twenty (120) days to a minimum of seven hundred and forty (740) days from six hundred and twenty (620) 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 a period of adjustment for Office delay should be 798 days, not 678 days.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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

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

notice of allowance, the request is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the amount of Office Delay is 798 days. The Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **740 days** (798 days of Office delay less 58 days of Applicant delay). A copy of the updated PALM screen, showing the correct determination, is enclosed.

On March 2, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 620 days. The instant application for patent term adjustment was timely filed[2] on or before payment of the issue fee.

Applicant would have the Office accord 798 days of Office delay, rather than 678 days, on the basis that the Office did not timely respond to the response to a non-final Office action that was received in the Office on June 6, 2008.

37 CFR 1.702(a)(2) provides that grounds for adjustment of patent term due to examination delay include failure of the Office to:

> [r]espond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

Pursuant to 37 CFR 1.703(a)(3), the period is calculated as follows:

> [t]he number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

Applicant submitted a response to a non-final Office action on June 6, 2008. The Office mailed a Notice to Comply with the Sequence Rules on October 16, 2008, which is four months and ten days after the receipt of the submission of June 6, 2008. Therefore, the Office accorded ten days of Office delay. With this petition, Applicant asserts that the mailing of October 16,

[2] PALM records indicate that the issue fee was paid on December 14, 2009.

2008 does not constitute a notification under 35 U.S.C. 132, and the Office delay should have ran until February 13, 2009 (four months and 130 days after the receipt of the submission of June 6, 2008), when the Office mailed a final Office action. Effectively, Applicant asserts that pursuant to 37 CFR 1.703(a)(3), the Office should have entered a period of adjustment of 130 days, and not ten days.

Applicant's argument has been considered and has been found to be persuasive. It is noted that MPEP § 2731 sets forth, in pertinent part:

> A written restriction requirement, a written election of species requirement, a requirement for information under 37 CFR 1.105, an action under Ex parte Quayle, 1935 Comm'r Dec. 11 (1935), and a notice of allowability (PTOL-37) are each an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, each of these Office actions is a notification under 35 U.S.C. 132. **Office notices and letters issued as part of the pre-examination processing of an application are not notices issued as a result of an examination conducted pursuant to 35 U.S.C. 131, and thus are not notifications under 35 U.S.C. 132. Examples of such pre-examination processing notices are:** a Notice of Incomplete Nonprovisional Application, a Notice of Omitted Item(s) in a Nonprovisional Application, a Notice to File Missing Parts of Application, a Notice of Informal Application, a Notice to File Corrected Application Papers Filing Date Granted, or **a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.**
>
> Emphases added.

In view thereof, the patent term adjustment as of the mailing of the notice of allowance is **seven hundred forty (740) days.**

The Office delay of ten days, associated with the mailing of the Notice to Comply with the Sequence Rules on October 16, 2008, has been removed.

An Office delay of 130 days, associated with the mailing of the final Office action on February 13, 2009, has been added.

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).

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

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

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

10/944,277	HYBRID HEPATOCYTE GROWTH FACTOR GENE HAVING HIGH EXPRESSION EFFICIENCY OF TWO HETEROTYPES OF HEPATOCYTE GROWTH FACTOR	09-04-2010::07:52:09

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/944,277

Filing or 371(c) Date:	09-20-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	678
A Delays:	678	PTO Manual Adjustments:	120
B Delays:	0	Applicant Delays:	58
C Delays:	0	Total PTA Adjustments:	740

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
118	09-04-2010	Adjustment of PTA Calculation by PTO	120		0
107	10-23-2009	Mail Notice of Allowance			0
106	10-23-2009	Filing Receipt - Corrected			0
105	10-22-2009	Issue Revision Completed			0
104	10-22-2009	Document Verification			0
103	10-22-2009	Notice of Allowance Data Verification Completed			0
102	10-22-2009	Case Docketed to Examiner in GAU			0
100	08-28-2009	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
99	10-22-2009	Notice of Allowability			0
98	09-09-2009	Information Disclosure Statement considered			0
97	08-28-2009	Information Disclosure Statement considered			0
96	09-09-2009	Reference capture on IDS			0
95	09-09-2009	Information Disclosure Statement (IDS) Filed			0
94	08-28-2009	Reference capture on IDS			0
93	08-28-2009	Information Disclosure Statement (IDS) Filed			0
92	10-16-2009	Date Forwarded to Examiner			0
91	08-28-2009	Request for Continued Examination (RCE)			0
90	10-16-2009	Disposal for a RCE / CPA / R129			0

89	08-28-2009	Supplemental Papers - Oath or Declaration	0
88	08-28-2009	Miscellaneous Incoming Letter	0
87	09-09-2009	Information Disclosure Statement (IDS) Filed	0
86	08-28-2009	Information Disclosure Statement (IDS) Filed	0
85	08-28-2009	Workflow - Request for RCE - Begin	0
84	06-25-2009	Finished Initial Data Capture	0
83	06-16-2009	Sequence Forwarded to Pubs on Tape	0
82	06-02-2009	Export to Initial Data Capture	0
81	05-29-2009	Mail Examiner's Amendment	0
80	05-29-2009	Mail Notice of Allowance	0
79	05-28-2009	Issue Revision Completed	0
78	05-28-2009	Document Verification	0
77	05-28-2009	Notice of Allowance Data Verification Completed	0
76	05-28-2009	Examiner's Amendment Communication	0
75	05-28-2009	Notice of Allowability	0
74	05-08-2009	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	0
73	05-13-2009	Date Forwarded to Examiner	0
72	05-08-2009	Amendment after Final Rejection	0
71	04-14-2009	Mail Examiner Interview Summary (PTOL - 413)	0
70	04-09-2009	Examiner Interview Summary Record (PTOL - 413)	0
69	02-13-2009	Mail Final Rejection (PTOL - 326)	0
68	02-12-2009	Final Rejection	0
67	11-17-2008	Information Disclosure Statement considered	0
66	06-06-2008	Information Disclosure Statement considered	0
65	12-09-2008	CRF Is Good Technically / Entered into Database	0

64	11-17-2008	Information Disclosure Statement (IDS) Filed		0	62
63	12-08-2008	Date Forwarded to Examiner			0
62	11-17-2008	Response after Non-Final Action			0
61	11-17-2008	Information Disclosure Statement (IDS) Filed			0
60	10-16-2008	Mail Miscellaneous Communication to Applicant	10		54
59	10-14-2008	Miscellaneous Action with SSP			0
58	07-14-2008	CRF Is Flawed Technically / Not Entered into Database			0
57	06-06-2008	Reference capture on IDS			0
56	06-06-2008	Information Disclosure Statement (IDS) Filed		0	54
55	07-12-2008	Date Forwarded to Examiner			0
54	06-06-2008	Response after Non-Final Action		58	47
53	06-06-2008	Request for Extension of Time - Granted			0
52	06-06-2008	Information Disclosure Statement (IDS) Filed			0
51	05-20-2008	Mail Examiner Interview Summary (PTOL - 413)			0
50	05-13-2008	Examiner Interview Summary Record (PTOL - 413)			0
49	04-04-2008	Mail Examiner Interview Summary (PTOL - 413)			0
48	03-27-2008	Examiner Interview Summary Record (PTOL - 413)			0
47	01-09-2008	Mail Non-Final Rejection			0
46	01-07-2008	Non-Final Rejection			0
45	05-16-2006	Information Disclosure Statement considered			0
44	01-18-2005	Information Disclosure Statement considered			0
42	10-23-2007	Date Forwarded to Examiner			0
41	10-19-2007	Response to Election / Restriction Filed			0
40	09-19-2007	Mail Restriction Requirement	668		-1
39	09-17-	Requirement for Restriction / Election			0

	2007		
38	08-21-2007	Case Docketed to Examiner in GAU	0
37	08-19-2007	IFW TSS Processing by Tech Center Complete	0
36	09-28-2004	Miscellaneous Incoming Letter	0
35	05-16-2006	Information Disclosure Statement (IDS) Filed	0
34	01-18-2005	Information Disclosure Statement (IDS) Filed	0
33	12-20-2004	Preliminary Amendment	0
32	09-20-2004	Preliminary Amendment	0
31.7	05-16-2006	Information Disclosure Statement (IDS) Filed	0
31	05-16-2006	Information Disclosure Statement (IDS) Filed	0
30	01-18-2005	Reference capture on IDS	0
29.7	01-18-2005	Information Disclosure Statement (IDS) Filed	0
29	01-18-2005	Information Disclosure Statement (IDS) Filed	0
28	12-20-2004	Preliminary Amendment	0
27	09-20-2004	Preliminary Amendment	0
26	01-06-2005	Application Return from OIPE	0
25	01-06-2005	Application Return TO OIPE	0
24	01-06-2005	Application Return from OIPE	0
23	01-07-2005	Application Is Now Complete	0
22	01-06-2005	Application Return TO OIPE	0
21	01-06-2005	Application Dispatched from OIPE	0
20	01-06-2005	Application Is Now Complete	0
19	12-20-2004	Payment of additional filing fee/Preexam	0
18	09-20-2004	Claim Preliminary Amendment	0
16	12-20-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0

15	11-19-2004	Cleared by L&R (LARS)	0
14	10-19-2004	Referred to Level 2 (LARS) by OIPE CSR	0
13	10-19-2004	CASE CLASSIFIED BY OIPE	0
12	10-18-2004	Notice Mailed--Application Incomplete--Filing Date Assigned	0
4	10-01-2004	IFW Scan & PACR Auto Security Review	0
3	09-30-2004	CRF Is Good Technically / Entered into Database	0
2	09-20-2004	CRF Disk Has Been Received by Preexam / Group / PCT	0
1	09-20-2004	Initial Exam Team nn	0

Close Window

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)
7124509	2006-10-24	10/944,298	2004-09-17	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert A. Huntsman/	Date (YYYY-MM-DD)	2011-02-28
Name	Robert A. Huntsman	Registration Number	39232

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. 7124509
Issue Date: October 24,2006
Application No. 10944298
Filed: September 17,2004
Attorney Docket No. 200510-HAWK

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 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 February 28,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIS WRIGHT TREMAINE LLP-
SAN FRANCISCO
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

MAILED
FEB 23 2011
OFFICE OF PETITIONS

In re Application of	:	
MOLKENTIN, et al	:	
Application No. 10/944,375	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 0088544-004US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of February 23, 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 April 24, 2010. *See* MPEP 1214.06.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

With respect to item (1): In the petition filed April 30, 2010, petitioner stated a continuation was filed, however, does not include the serial number and filing date for clarity. Accordingly, the required reply is considered incomplete and does not meet the requirements as set forth in 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIS WRIGHT TREMAINE LLP-
SAN FRANCISCO
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
MOLKENTIN, et al	:	
Application No. 10/944,375	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 0088544-004US0	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2011, to revive the above-identified application.

The petition is **APPROVED**

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of February 23, 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 April 24, 2010. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b) and required fees; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/772,024, filed April 30, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/10

TO SPE OF : ART UNIT 1765 SEIDLECK JAMES (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/944384 Patent No.: 7807750

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1765
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUL 15 2011

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Patent No. 7,801,563 :
Hara et al. :
Issue Date: September 21, 2010:
Application No. 10/944,497 :
Filed: September 17, 2004 :
Attorney Docket No. FUJO 21.391 :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed September 16, 2010. Patentees requests review of the Patent Term Adjustment (PTA) determined for the above-identified patent. Patentees request that the patent term adjustment for the subject be patent be indicated as one thousand, one hundred and eighty-eight (1,188) days, rather than one thousand, one hundred and eight-two (1,182) days.

The request is **DISMISSED**.

Patentees assert that the period of overlap between the periods of "A" delay and "B" delay is only 134 days, rather than the 140 days calculated by the Office. Patentees' argument has been considered, but is not persuasive. It appears that patentees' failed to consider a 6 day period of overlap between the "A" and "B" periods of delay.

The period of "B" delay began September 18, 2007, and ended December 21, 2008, the day before the date the Request for Continued Examination was filed. The "B" delay period is 461 days. There were two periods of examination delay, or "A" delay" that overlapped with the "B" period. The first period began November 18, 2005, and ended January 29, 2008. This period of "A" delay overlapped with the period of "B" delay for a period of 134 days beginning September 18, 2007, and ending January 29, 2008. The second period of examination delay that overlapped with the "B" delay began August 30, 2008, and ended September 4, 2008, and was 6 days. Accordingly, the period of overlap of "A" and "B" periods of delay is 140 days (134 +6).

The patent term adjustment is, therefore, 1,182 days (461 days of "B" delay + 940 days of "A" delay - 140 days of overlap - 79 days of applicant delay). No change to the patent term adjustment is warranted.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application of :
Solotareff et al. :
Application No. 10/944,532 : ON APPLICATION FOR
Filed: September 17, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 042333-0110 :

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 May 24, 2011. Applicant requests reconsideration of the initial determination of patent term adjustment solely on the basis that the Office will take in excess of three years to issue the patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The application is being forwarded to the Office of Data Management for processing into a patent.

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
www.uspto.gov

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Patent No. 7,427,441
Issued: September 23, 2008
Application No. 10/944,570
Filed: September 17, 2004
Attorney Docket No. 88349PAL

DECISION ON PETITION

This is a decision on the petition, filed, August 30, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Petitioner states that the correct assignee's name is "Eastman Kodak Company (Rochester, New York)" 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.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter).

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Eastman Kodak Company (Rochester, New York)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate to issue a certificate of correction.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The required $100.00 certificate of correction fee has been charged to the authorized deposit account.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205. 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.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 08 2010
OFFICE OF PETITIONS

FURR LAW FIRM
2622 DEBOLT ROAD
UTICA OH 43080

In re Application of	:	
Falquete	:	
Application No. 10/944,921	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. CRI009	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed November 16, 2010.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed June 17, 2009. This Office action set a shortened statutory period for reply of three (3) months. Therefore, the last day a reply could have been timely filed would have been December 17, 2009. The Office mailed a Notice of Abandonment on December 24, 2009, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on December 17, 2009, made timely by obtaining a three month extension of time. A review of Office finance records confirms that the Office received the fee for the three month extension of time on that same day. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 1793 for consideration of the Amendment filed December 17, 2009 (made timely by obtaining a three month extension of time).

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
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JUL 26 2011
OFFICE OF PETITIONS

CHARLES D. GUNTER, JR.
WHITAKER, CHALK, SWINDLE & SAWYER, LLP
SUITE 3500
301 COMMERCE STREET
FORT WORTH TX 76102-4186

In re Patent No. 7,032,621	:	
Issue Date: April 25, 2006	:	
Application No. 10/945,175	:	DECISION ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. **20682.006**	:	

This is a decision on the petition under 37 CFR 1.378(c), received on April 04, 2011, with a certificate of mailing dated March 30, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on April 25, 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.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **THOMAS JOSEPH KEYES, SR.**
CHIEF EXECUTIVE OFFICER, THERMACOR PROCESS, LP
1670 HICKS FIELD ROAD E.
FORT WORTH TX 76179

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
NOV 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,668,612
Issue Date: February 23, 2010
Application No. 10/945,466
Filed: September 20, 2004
Attorney Docket No. 16037US02

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed November 10, 2011.

The petition is dismissed as inappropriate.

The instant petition was filed to obtain 1.47 status for an unsigned assignment by inventor Okkonen.

The above-identified application was filed September 20, 2004 and matured into U.S. Patent No. 7,668,612 on February 23, 2010. A review of the record shows that a fully executed declaration pursuant to 37 CFR 1.63 was filed on January 14, 2005.

The provisions of 37 CFR 1.47 are not applicable to applications which have issued as a patent. The provisions of 37 CFR 1.47 are not applicable to matters concerning unsigned assignment documents.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this patent file will be directed solely to the correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Cc: Brooks & Cameron, PLLC
1221 Nicollet Avenue, Suite 500
Minneapolis, MN 55403

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.
10/945,896	09/22/2004	Glenn M. Medford	839-1404	2404

30024 7590 12/02/2010
NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
FLETCHER III, WILLIAM P

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
12/02/2010	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.

Copied from 10945896 on 12/08/2010

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

Mirut Dalal
McAndrews Held & Malloy, LTD.
500 West Madison Street
Suite 3400
Chicago IL 60661

In re Application of:
Relan
Application No. 10/945,896
Filed: September 21, 2004
For: High Security Memory System

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181 TO

This is a decision on the petition filed November 16, 2010 under 37 CFR § 1.181 requesting the entry of the after final amendment filed May 4, 2010.

The petition shows a claim comparison of the claims indicating as allowable subject matter in the final rejection to the claims submitted in the May 4, 2010 after final amendment and states that no new search or issues are generated by entry of the amendment. This comparison shows how claims 36 and 45 are not broader in scope than the previously indicated as allowable claims and that the statement about claim 53 is wrong.

A review of the file reveals that the showing in the petition that May 4th amendment is a word for word incorporation of claim features indicated as allowable into independent claims is correct. As such the amendment raises no new issues nor requires further search and the amendment is hereby entered.

For the above stated reasons, the petition is **Granted**.

The application is being forwarded to the examiner for further action.

Tod Swann
Quality Assurance Specialist
Technology Center 2400

Copied from 10945896 on 12/08/2010

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.
10/945,596	09/21/2004	Sandeep Relan	15915US01	6242

23446 7590 12/06/2010
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
CALLAHAN, PAUL E

ART UNIT	PAPER NUMBER
2437	

MAIL DATE	DELIVERY MODE
12/06/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mirut Dalal
McAndrews Held & Malloy, LTD.
500 West Madison Street
Suite 3400
Chicago IL 60661

In re Application of:
Relan
Application No. 10/945,596
Filed: September 21, 2004
For: High Security Memory System

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181 TO

This is a decision on the petition filed November 16, 2010 under 37 CFR § 1.181 requesting the entry of the after final amendment filed May 4, 2010.

The petition shows a claim comparison of the claims indicating as allowable subject matter in the final rejection to the claims submitted in the May 4, 2010 after final amendment and states that no new search or issues are generated by entry of the amendment. This comparison shows how claims 36 and 45 are not broader in scope than the previously indicated as allowable claims and that the statement about claim 53 is wrong.

A review of the file reveals that the showing in the petition that May 4th amendment is a word for word incorporation of claim features indicated as allowable into independent claims is correct. As such the amendment raises no new issues nor requires further search and the amendment is hereby entered.

For the above stated reasons, the petition is **Granted**.

The application is being forwarded to the examiner for further action.

Tod Swann
Quality Assurance Specialist
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FEB 04 2011

OFFICE OF PETITIONS

Scott A. Whitaker, Ph.D., J.D., Sr.
Intellectual Property Counsel
BioNumerik Pharmaceuticals, Inc.
8122 Datapoint Drive, Suite 1250
San Antonio, TX 78229

In re Patent No. 7,282,602	:	
Issue Date: October 16, 2007	:	
Application No. 10/945,809	:	NOTICE
Filed: September 21, 2004	:	
Patentee(s): Qiuli Huang, et. al.	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on November 30, 2010.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. 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 Scott A. Whitaker 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS J. DODD, SENIOR PATENT COUNSEL
BIONUMERIK PHARMACEUTICALS, INC.
SUITE 1250
8122 DATAPOINT DRIVE
SAN ANTONIO TX 78229

MAILED
JAN 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,235,589	:	
Issue Date: June 26, 2007	:	
Application No. 10/945,810	:	NOTICE
Filed: September 21, 2004	:	
Attorney Docket No. X-0234	:	

This is a notice regarding your request, November 23, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This 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
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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LaHive & Cockfield, LLP/Biogen IDEC
Floor 30, Suite 3000
One Post Office Square
Boston, MA 02109-2127

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Patent No. 7,582,299	:
Sanicola-Nadel et al.	: DECISION UPON REMAND AND
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 10/945,853	: PATENT TERM ADJUSTMENT
Filed: September 20, 2004	: AND NOTICE OF INTENT
Attorney Docket No. BGG-	: TO ISSUE CERTIFICATE OF
A117CPPCCNRE	: CORRECTION
Title: Cripto-Specific	:
Antibodies	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred and one (501) 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 five hundred and one (501) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,299

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Sanicola-Nadel 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 166 days

Delete the phrase "by 166 days" and insert – by 501 days--

Day : Wednesday

PALM INTRANET

Date: 9/1/2010
Time: 08:34:22

PTA Calculations for Application: 10/945853			
Application Filing Date:	09/20/2004	PTO Delay (PTO):	501
Issue Date of Patent:	09/01/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	202
Post-Issue Petitions:	0	Total PTA (days):	501
PTO Delay Adjustment:	202		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
101	09/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	335		
90.5	08/12/2009	PTA 36 MONTHS			
90	09/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
89	08/07/2009	EXPORT TO FINAL DATA CAPTURE			
88	08/06/2009	DISPATCH TO FDC			
87	08/03/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
86	08/03/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
86	08/03/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
85	07/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
85	07/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
84	07/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		122	
84	07/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
83	07/06/2009	PETITION ENTERED			
82	07/08/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
81	07/06/2009	ISSUE FEE PAYMENT VERIFIED			
80	07/06/2009	ISSUE FEE PAYMENT RECEIVED			
79	05/06/2009	FINISHED INITIAL DATA CAPTURE			
78	04/21/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
77	04/10/2009	EXPORT TO INITIAL DATA CAPTURE			
76	04/06/2009	MAIL NOTICE OF ALLOWANCE			

75	04/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
74	04/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
73	04/03/2009	ISSUE REVISION COMPLETED			
72	04/03/2009	DOCUMENT VERIFICATION			
71	04/03/2009	NOTICE OF ALLOWABILITY			
68	03/20/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	03/23/2009	PARALEGAL TD ACCEPTED			
66	03/20/2009	TERMINAL DISCLAIMER FILED		49	62
65	03/20/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	01/30/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	03/09/2009	DATE FORWARDED TO EXAMINER			
62	01/30/2009	RESPONSE AFTER NON-FINAL ACTION			
61	01/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	01/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	10/30/2008	MAIL NON-FINAL REJECTION			
58	10/23/2008	NON-FINAL REJECTION			
57	08/21/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	08/21/2008	REFERENCE CAPTURE ON IDS			
55	08/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	08/21/2008	MISCELLANEOUS INCOMING LETTER			
53	09/04/2008	DATE FORWARDED TO EXAMINER			
52	08/21/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
51	09/04/2008	DATE FORWARDED TO EXAMINER			
50	08/21/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		61	44
49	09/04/2008	DISPOSAL FOR A RCE / CPA / R129			
48	08/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	08/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	08/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40

44	03/21/2008	MAIL FINAL REJECTION (PTOL - 326)			
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42	01/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	02/13/2008	DATE FORWARDED TO EXAMINER			
40	01/30/2008	RESPONSE AFTER NON-FINAL ACTION		92	33
39	01/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/30/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
37	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	11/13/2007	CORRESPONDENCE ADDRESS CHANGE			
34	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
33	07/30/2007	MAIL NON-FINAL REJECTION			
32	07/26/2007	NON-FINAL REJECTION			
31	07/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	06/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/19/2007	DATE FORWARDED TO EXAMINER			
28	06/05/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
27	06/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	06/05/2007	REFERENCE CAPTURE ON IDS			
25	06/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	06/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	04/05/2007	MAIL RESTRICTION REQUIREMENT	501		-1
22	04/02/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	07/27/2006	REFERENCE CAPTURE ON IDS			
20.7	07/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	07/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	08/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	07/21/2005	PRELIMINARY AMENDMENT			

16	08/09/2005	APPLICATION DISPATCHED FROM OIPE			
15	08/09/2005	APPLICATION IS NOW COMPLETE			
14	07/21/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
11	09/20/2004	CLAIM PRELIMINARY AMENDMENT			
10	07/21/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	07/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	08/04/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	11/17/2004	CLEARED BY L&R (LARS)			
4	10/19/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/19/2004	CASE CLASSIFIED BY OIPE			
2	10/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/20/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Patrick CONNELLY et al.	:	
Application No. 10/946,026	:	ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No. P0031324.03/LG10126	:	

This is a decision on the petition under 37 CFR 1.183, filed May 6, 2010, seeking waiver of the rules.

The petition is **DISMISSED**.

Petitioner requests waiver of the rules as petitioner desires to have the supplemental amendment filed April 21, 2009 entered in this application.

37 CFR 1.111(a)(2) states:

> Supplemental replies. (i) A reply that is supplemental to a reply that is in compliance with § 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section. The Office may enter a supplemental reply if the supplemental reply is clearly limited to:
> (A)Cancellation of a claim(s);
> (B)Adoption of the examiner suggestion(s);
> (C)Placement of the application in condition for allowance;
> (D)Reply to an Office requirement made after the first reply was filed;
> (E)Correction of informalities (e.g., typographical errors); or
> (F)Simplification of issues for appeal.

37 CFR 1.121(c) states in part:

> Claims. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the

> claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

37 CFR 1.126 states:

> The original numbering of the claims must be preserved throughout the prosecution. When claims are canceled the remaining claims must not be renumbered. When claims are added, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant.

37 CFR 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).

Petitioner requests that the provisions of 37 CFR 1.111(a)(2), 1.121(c), and 1.126 be waived so that the supplemental amendment, which newly presented 90 claims in either identical or modified form from claims 1-18 of U.S. Patent No. 7,363,090 (the '090 patent) along with amendments to pending claims 46 and 48, be entered.

The issue at hand is not what actions may or may not occur in a continuing application or as to how petitioner perceives the supplemental amendment may be treated by the examiner; rather it is whether petitioner has properly followed the statutes and regulations with the exercise of reasonable care and diligence herein. In the instant case, a review of the record indicates that the supplemental amendment was not filed in accordance with 37 CFR 1.111(a)(2), 1.121(c), and 1.126.

In order for grant of a petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rules. In re Sivertz, 227 U.S.P.Q.

255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case, much less that the filing of a supplemental amendment is necessary. Petitioner acknowledges that the claims set forth in the supplemental amendment may have been filed in a continuing application. Additionally, petitioner should have known that any of the claims currently pending in the instant application may have been filed in a continuing application if desired. Nevertheless, petitioner filed an additional 90 claims in the instant application and knew, or should have, known that entry of the supplemental amendment was not a matter of right under 37 CFR 1.111(a)(2).

Extraordinary relief will not be considered where the rules of practice already provide an avenue for relief. It is brought to petitioner's attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). Here, as noted above petitioner may have properly filed the identical or modified claims from the '090 patent in a continuing application by way of 37 CFR 1.53(b). Further in this regard, a standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). That is, the patent statute at 35 U.S.C. 120 (and its promulgating regulation 37 CFR 1.53(b)) provides a specific mechanism whereby an applicant may file a continuing application. Since there is a specific mechanism in place to remedy the requested relief then it is inappropriate for the USPTO to contemplate circumventing that mechanism by creating another remedy.

Additionally, circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner 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); Stevens v. Tamai, 366F.3d 1325 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). Indeed, it is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or

procedures under 37 CFR 1.183. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995). Even assuming, *arguendo*, that clerical inadvertence or mistake led to petitioner's failure to submit a timely and proper reply, such is not a grounds for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994) (clerical error causing delay leading to a loss of right does not warrant suspension of the rules).

Potential loss of the right to declare interference is not "extraordinary" within the meaning of 37 CFR 1.183. While an applicant may wait until the end of the one year period in 35 U.S.C. 135(b) to present a claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent, the applicant does so at his or her peril. Those who file at the end of a statutory bar year (35 U.S.C. 102(b)), a priority year (35 U.S.C. 119), or the one year period provided in 35 U.S.C. 135(b) do not leave any opportunity to overcome any error that might occur in filing or prosecution of the application. The PTO, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r. Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r. Pat. 1968).

While it is acknowledged that if 37 C.F.R. §§ 1.111(a)(2), 1.121(c), and 1.126 are not waived, petitioners' ability to declare interference under 35 USC 135 may be lost, it is not enough to show that a great loss of rights will occur to justify suspension or waiver of the rules under 37 CFR 1.183 simply because the failure to comply with the submission requirements was an avoidable oversight that could have been prevented by the exercise of due care or diligence, and is, hence, not an extraordinary event within the meaning of 37 CFR 1.183. See, Nitto Chemical Industry Co., Ltd. V. Comer, 37 USPQ2d 1778 (1994). (Commissioner's refusal to waive requirements of 37 C.F.R. 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. 1.183). Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). Rather, as the USPTO did not cause or contribute to petitioner's filing the claims in a supplemental amendment in the instant application, as opposed to filing them by way of a continuing application under 37 CFR 1.53(b), this is a circumstance that is even further removed from an "extraordinary situation" where "justice requires" an extraordinary remedy. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

Moreover, no extraordinary circumstance has been shown to have occurred that precluded petitioners from filing the claims presented in the supplemental amendment, filed April 21, 2009, in a continuing application under 37 CFR 1.53(b). See Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985)(petitioner's failure to take adequate notice of USPTO procedures will not be permitted to shift, in equity, his lack of diligence onto the USPTO)

As the instant petition is being treated as a petition under 37 CFR 1.183, the petition fee of $400 set forth in 37 CFR 1.17(f) is required. Accordingly, the petition fee of $400 will be charged to petitioners Deposit Account No. 50-3939.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 3762 for further processing commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Lebovic et al.	:	REQUEST FOR
Patent Number: 7,616,732	:	RECONSIDERATION OF
Issue Date: 11/10/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/946044	:	and
Filing or 371(c) Date: 09/21/2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: BLU-005	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 21, 2010 under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-one (641) 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 forty-one (641) days is **GRANTED to the extent indicated herein**.

As to the "A" delay, the period is 659 days, not 32 days. This period includes an adjustment of 627 days pursuant to 37 CFR 1.702(a)(1), in connection with the mailing of the Notice of Allowance and Issue Fee Due, four months and 627 days after the reply to the non-final Office action was filed on June 11, 2007.

As to the "B" delay, the period is 473 days, not 781 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 the issue date of the patent, or 781 days, but not including the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, May 8, 2006, and ending on the date of mailing of the non-final Office action, September 28, 2006, or 144 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Also excluded from the "B" delay period is the number of days consumed by the Interference Proceeding under 35 U.S.C. 135(a), beginning on the date on which the Interference was declared, January 15, 2008, and ending on the date of the Interference Decision, June 26, 2008, or 164 days. See, 35 U.S.C. 154(b)(1)(C)(i). Thus, the "B" delay period is 473 (781 days – 308 days), not 781 days.

As to the "C" delay, the period is 164 days due to interference proceedings under 35 U.S.C. 135(a).

As to the periods of overlap, the period of "A" and "B" overlap is calculated beginning 308 days after the "B" period, or July 26, 2008[1]. In this instance, the period of adjustment of 627 days pursuant to 37 CFR 1.702(a)(1) overlaps with the period of adjustment pursuant to 37 CFR 1.702(b), beginning July 26, 2008, for a period of 339 days. Also overlapping are the period of adjustment of 627 days pursuant to 37 CFR 1.702(a)(1), and the period of adjustment of 164 days pursuant to 37 CFR 1.702(c)(1) ("A" and "C" overlap).

In view of the foregoing, the patent term adjustment is 621 days, ("A" delays, plus "B" delays, plus "C" delays, minus Applicant delays, minus overlap), not 641 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 six hundred twenty-one **(621)** 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

---

[1] The "B" period begins on the day after the date that is three (3) years after the filing date of the application, here, September 22, 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,616,732 B2

DATED : **November 10, 2009**

INVENTOR(S) : Lebovic 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 458 days.

Delete the phrase "by 458 days" and insert – by 621 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110527

DATE : May 27, 2011

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7260804

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:

Changes do not affect the scope of the claims.

/JACK CHIANG/
Supervisory Patent Examiner.Art Unit 2825

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JONES DAY for
Isis Pharmaceuticals, Inc.
222 East 41st Street
New York NY 10017-6702

In re Application of :
Bhat et al. :
Application No. 10/946,147 :
Filed: September 20, 2004 :
Attorney Docket No. 12207-091-999 (CHEM0011US :
For: OLIGOMERIC COMPOUNDS COMPRISING 4'-THIONUCLEOSIDES FOR USE IN GENE MODULATION :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed November 9, 2010. This petition is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from four hundred thirty (430) days to one thousand two hundred seventy-one (1,271) days. Applicants' calculations fail to include the 27 day adjustment.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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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.

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

On August 10, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 430 days. The instant application for patent term adjustment was timely filed on November 9, 2010.

Applicants' calculations do not include a 27 day adjustment for the delay in mailing the June 17, 2008 Office action in response to the January 21, 2008 amendment.

The Office has considered applicant's argument but does not find it persuasive. The Office has concluded that an adjustment of 27 days was properly entered based on 37 CFR 1.702(a)(2). 37 CFR 1.702(a)(2) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> > Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

In this instance, the Office took until June 17, 2008 to mail a non-final Office action in response to the amendment filed January 21, 2008. Pursuant to 37 CFR §1.703(a)(2), a period of adjustment of twenty-seven (27) days, counting the number of days in the period beginning on the day after the date that is four months after the date a reply was filed, May 22, 2008, and ending on the date of mailing of an action under 35 U.S.C. 132, June 17, 2008, should have been entered.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance is four hundred thirty **(430)** days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANDERSON GORECKI & MANARAS, LLP
ATTN: JOHN C. GORECKI
P.O BOX 553
CARLISLE, MA 01741

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
Lakshminath R. Dondeti :
Application No. 10/946,322 : ON PETITION
Filed: September 21, 2004 :
Attorney Docket No.: 16770BAUS01U :

This is a decision in response to the petition, filed July 23, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment in response to the final Office action mailed August 28, 2009, was included with the petition filed on July 23, 2010; however, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[3]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

[3] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/946,322	DONDETI, LAKSHMINATH R.	
	Examiner	Art Unit	
	David Garcia Cervetti	2436	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: 1.
   Claim(s) objected to: _____.
   Claim(s) rejected: 18-34.
   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: further consideration and search needs to be given to newly added claims.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/David García Cervetti/
Primary Examiner, Art Unit 2436

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ANDERSON GORECKI & MANARAS, LLP
ATTN: JOHN C. GORECKI
P.O BOX 553
CARLISLE, MA 01741

MAILED
JAN 2 1 2011
OFFICE OF PETITIONS

In re Application of :
Lakshminath R. Dondeti :
Application No. 10/946,322 : ON PETITION
Filed: September 21, 2004 :
Attorney Docket No.: 16770BAUS01U :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 12, 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 August 28, 2009. A Notice of Abandonment was mailed on March 18, 2010. On July 23, 2010 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed September 30, 2010. In response, 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 a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $810; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2436 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,276,487	: DECISION ON REQUEST FOR
WANG et al.	: RECONSIDERATION OF
Issue Date: October 2, 2007	: PATENT TERM ADJUSTMENT
Application No. 10/946,339	: AND
Filed: September 21, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 4014.1064 US1	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 25, 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 two hundred forty-three (243) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred forty-three (243) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred forty-three (243) 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 : 7,276,487 B2

DATED : Oct. 2, 2007 **DRAFT**

INVENTOR(S) : Wang 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 232 days

Delete the phrase "by 232 days" and insert – by 243 days--

Day : Tuesday
Date: 8/17/2010

PALM INTRANET

Time: 13:57:17

PTA Calculations for Application: 10/946339			
Application Filing Date:	09/21/2004	PTO Delay (PTO):	232
Issue Date of Patent:	10/02/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	243
PTO Delay Adjustment:	11		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	08/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	11		
58.5	09/12/2007	PTA 36 MONTHS			
58	10/02/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
57	08/30/2007	EXPORT TO FINAL DATA CAPTURE			
56	08/29/2007	DISPATCH TO FDC			
55	08/29/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
54	08/27/2007	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
53	08/27/2007	ISSUE FEE PAYMENT VERIFIED			
52	08/27/2007	ISSUE FEE PAYMENT RECEIVED			
51	07/19/2007	FINISHED INITIAL DATA CAPTURE			
50	06/29/2007	EXPORT TO INITIAL DATA CAPTURE			
49	06/25/2007	MAIL NOTICE OF ALLOWANCE			
48	06/25/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
47	06/25/2007	MAIL EXAMINER'S AMENDMENT			
46	06/21/2007	EXAMINER'S AMENDMENT COMMUNICATION			
45	06/21/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	06/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
43	06/21/2007	ISSUE REVISION COMPLETED			
42	06/21/2007	DOCUMENT VERIFICATION			
41	06/13/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	06/20/2007	NOTICE OF ALLOWABILITY			
39	05/21/2007	MAIL ADVISORY ACTION (PTOL - 303)			

38	05/17/2007	ADVISORY ACTION (PTOL-303)			
37	05/14/2007	DATE FORWARDED TO EXAMINER			
36	05/10/2007	AMENDMENT AFTER FINAL REJECTION			
35	05/14/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
34	05/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	03/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
32	03/13/2007	FINAL REJECTION			
31	02/09/2007	DATE FORWARDED TO EXAMINER			
30	01/24/2007	RESPONSE AFTER NON-FINAL ACTION			
29	10/24/2006	MAIL NON-FINAL REJECTION			
28	10/23/2006	NON-FINAL REJECTION			
27	09/30/2006	DATE FORWARDED TO EXAMINER			
26	09/22/2006	RESPONSE AFTER NON-FINAL ACTION			
25	07/11/2006	MAIL NON-FINAL REJECTION	232		-1
24	07/07/2006	NON-FINAL REJECTION			
23	04/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	04/27/2005	REFERENCE CAPTURE ON IDS			
21.7	04/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	01/05/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
18	01/05/2005	PRELIMINARY AMENDMENT			
17	02/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	01/19/2005	APPLICATION RETURN FROM OIPE			
15	01/19/2005	APPLICATION IS NOW COMPLETE			
14	01/19/2005	APPLICATION RETURN TO OIPE			
13	01/19/2005	APPLICATION RETURN FROM OIPE			
12	01/19/2005	APPLICATION RETURN TO OIPE			
11	01/19/2005	APPLICATION DISPATCHED FROM OIPE			
10	01/19/2005	APPLICATION IS NOW COMPLETE			
9	01/05/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			

8	01/05/2005	SMALL ENTITY STATEMENT (37 CFR 1.27)			
7	09/21/2004	CLAIM PRELIMINARY AMENDMENT			
6	01/05/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/09/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/25/2004	CLEARED BY OIPE CSR			
3	10/25/2004	CASE CLASSIFIED BY OIPE			
2	10/12/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/21/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Ladas & Parry
26 West 61st Street
New York NY 10023

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Donald R. Savin	:	
Application No. 10/946356	:	DECISION
Filing or 371(c) Date: 09/20/2004	:	ON PETITION
Patent No.: 7304100	:	
Issue Date: 12/04/2007	:	
Attorney Docket No.: U 015323-5	:	

This is a decision on the "Petition Under 37 C.F.R. § 3.81(b," filed May 31, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

RYAN, MASON & LEWIS, LLP
SUITE 205
1300 POST ROAD
FAIRFIELD CT 06824

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Ingo EWES et al.
Application No. 10/946,571
Filed: September 21, 2004
Attorney Docket No. **Ewes 6-5-1-11**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2009, 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 Notice of Panel Decision from Pre-Appeal Brief Review (Notice). As an appeal brief (and appeal brief fee) was not filed within one (1) month of the Notice of mailed March 05, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application became abandoned on April 06, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of March 05, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the reply received.

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

DATE: April 11, 2012
TO: Certificates of Correction Branch
FROM: Monica Lewis
SPE, Art Unit 2838
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. RE41908 as specified on the attached Certificate.

/Monica Lewis/

Monica Lewis
Supervisory Patent Examiner
Art Unit 2838

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. RE41908
Patented: 11/2/10

Insert in the last line of the first paragraph of the Cross-Reference to Related Applications in the specification after "U.S. Pat. No. 5,859,768" the following --, and 12/914,133 filed on Oct. 28, 2010 which is a continuation of reissue 10/946,611.--

/Monica Lewis/

Monica Lewis
Supervisory Patent Examiner
Art Unit 2838

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110527

DATE : May 27, 2011

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7260804

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:

Changes do not affect the scope of the claims.

/JACK CHIANG/
Supervisory Patent Examiner.Art Unit 2825

UNITED STATES 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. 7304828
Issue Date: December 4,2007
Application No. 10946841
Filed: September 22,2004
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 18,2012 ,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 18,2012 .
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)
7304828	2007-12-04	10946841	2004-09-22	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/clifford kraft/	Date (YYYY-MM-DD)	2012-01-18
Name	Clifford H. Kraft	Registration Number	35229

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 12 2011

OFFICE OF PETITIONS

RON J. LOW
2020 LANDWEHR
NORTHBROOK IL 60062

In re Application of	:	
Low	:	
Application No. 10/946,862	:	DECISION
Filed/Deposited: 22 September, 2004	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 18 August, 2011, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

NOTE:

Petitioner failed to submit the fee for the petition.

The petition fee is required.

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 requirements (as to unavoidable delay) under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

As discussed above, a review of the record reveals that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 20 February, 2009, with reply due absent extension of time on or before 20 May, 2009.

The application went abandoned by operation of law after midnight 20 May, 2009.

The Office mailed the Notice of Abandonment on 1 September, 2009.

On 18 August, 2011, Petitioner filed, *inter alia*, a petition (without fee) pursuant to 37 C.F.R. §1.137(a), and no reply—a reply in the form of an amendment is required—and an averment of unavoidable delay with a statement by Petitioner that he did not understand the Office action and could not afford to hire an attorney until now. The petition cannot be considered until the fee is paid and it is clear that Petitioner cannot satisfy the requirements for a petition pursuant to 37 C.F.R. §1.137(a), but well may satisfy the requirements of a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay when submitted with the petition, the fee, the reply and the statement of unintentional delay (in the petition form).

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).

It is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

> **...Unavoidable Delay**
>
> *As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See* Maldague, *10 USPQ2d at 1478.*

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, *38 App. D.C. 497, 514-15 (1912)(quoting* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963),* aff'd, *143 USPQ 172 (D.C. Cir. 1963);* Ex parte Henrich, *1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."* Smith v. Mossinghoff, *671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."* Haines v. Quigg, *673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to*

adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing

of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the 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, as discussed above.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All
business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110525

DATE : May 25, 2011

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7360193

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:

/JACK CHIANG/
Supervisory Patent Examiner.Art Unit 2825

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W FALLBROOK AVE SUITE 203
FRESNO CA 93711

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Burstein, et al.	:	
Application No. 10/946,926	:	DECISION ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No. GGT-006	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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, October 18, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 19, 2007. The Notice of Abandonment was mailed September 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2825 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/05/2010

Applicant	: Raymond Tah-Sheng Hsu	: DECISION ON REQUEST FOR
Patent Number	: 7657036	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/946,961	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1138** 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

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.
10/947,559	09/22/2004	Stephen Mullens	26318-012	1284

30623 7590 10/14/2010
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER
ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
3671	

MAIL DATE	DELIVERY MODE
10/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

OCT 14 2010

NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110

In re application of: Mullens et al.	:	
Serial Number: 10/947,559	:	PETITION UNDER 37 CFR 1.181
Filed: Sept. 22, 2004	:	FOR ENTRY OF APPELLANTS
Docket no. 054559-000002US	:	REPLY BRIEF
For: METHOD AND APPARATUS FOR	:	
PARKING SPACE ADVERTISING	:	

This is in response to the petition filed on December 17, 2009 for review of the action denying entry of appellant's reply brief filed on 29 June 2009 and requests that appellant's reply brief be entered.

The petition is **GRANTED**

On 12 September 2008 appellant filed a notice of appeal in the above identified patent application. Appellant filed his appeal brief on 14 November 2008. On 28 April 2009, the examiner mailed an examiner's answer. On 29 June 2009, appellant timely filed his reply brief. On 10 November 2009, the examiner denied entry of appellant's reply brief because "it includes new evidence, i.e., an unsigned affidavit."

One of the issues on appeal is whether the NPL reference (the Cotter Advertising reference) from the Wayback Machine website (web.archive.org) is valid prior art and provides sufficient evidence of the date of publication of the reference. See, examiner's answer pp. 8-9. On pages 8-9 in the examiner's answer, the examiner, for the first time, quoted a portion of the Wayback Machine website (the "Frequently Asked Questions" section) to support his contention that it is evidence that the NPL reference cited "was available and updated at least as early as 10 July 2001."

Appellant, in rebuttal to this new evidence, cited portions of the same website in support of his arguments that the Wayback Machine does not confirm the accuracy of the website and that Wayback Machine internet archive will only attest that the web pages are accurate copies of the web pages as they appear in the Wayback Machine internet archive records, and does not attest to the accuracy or existence of a web page on the date specified. See appellant's reply brief, p. 3. For the convenience of the Board of Patent Appeals and Interferences, appellant provided a copy of the "Standard Affidavit" that is available from the Wayback Machine website as Exhibit A to the reply brief.

A review of the proceedings in this case shows that the remarks brought up by the examiner in the examiner's answer of 28 April 2009 were new and that the appellant's response filed on 29 June 2009 was in direct response to these new remarks. MPEP 1208 states that after a reply brief is filed in which new issues are raised, the examiner may:
(A) Withdraw the final rejection and reopen prosecution to respond to the reply brief (see MPEP § 1207.04); or
(B) Furnish a supplemental examiner's answer responding to any new issue raised in the reply brief (see MPEP § 1207.05), with approval of the TC Director.

In this case the reply brief filed on 29 June 2009 will be entered and the case forwarded to the examiner to allow the examiner to reopen prosecution in light of the issues raised in the reply brief filed on 29 June 2009.

Any question concerning this decision should be referred to SPE Thomas B. Will at (540) 272-6998.

Dave Talbot, Director
Technology Center 3600
(571) 272-5150

tbw/lm: 9/17/2010
LM

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JUL 15 2011

Beyer Law Group LLP/ SISA
P.O. Box 1687
Cupertino CA 95015-1687

In re Application of	:	
Alan Messer et al.	:	DECISION ON PETITION
Application No. 10/947,774	:	TO EXPUNGE FILED
Filed: October 31, 2007	:	UNDER 37 CFR 1.59(b)
For: METHOD AND SYSTEM FOR PRESENTING	:	
USER TASKS FOR THE CONTROL OF	:	
ELECTRONIC DEVICES	:	

This is a decision on the petition under 37 CFR 1.59(b), filed February 03, 2010, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the propriety information labeled as "Exhibit E: Propriety Phase 3 Source code" filed on August 17, 2009 concurrently with the petition be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

lm: 7/11/11

LM

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/947,774	09/22/2004	Alan Messer	SISAP162/ADV03-CE01	2188

93650 7590 02/22/2012
Beyer Law Group LLP/ SISA
P.O. Box 1687
Cupertino, CA 95015-1687

EXAMINER
PARKER, BRANDI P

ART UNIT	PAPER NUMBER
3624	

NOTIFICATION DATE	DELIVERY MODE
02/22/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOmail@beyerlaw.com

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FEB 21 2012

Beyer Law Group LLP/ SISA
P.O. Box 1687
Cupertino, CA 95015-1687

In re Application of:	:	
Alan Messer et al.	:	
Application No.: 10/947,774	:	DECISION TO PETITION
Filed: September 22, 2004	:	TO EXPUNGE FILED
For: METHOD AND SYSTEM FOR	:	UNDER 37 CFR 1.59(b)
PRESENTING USER TASKS FOR THE	:	
CONTROL OF ELECTRONIC DEVICES	:	

This is a decision on the petition under 37 CFR 1.59(b), filed on February 03, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the Proprietary Phase 3 Source Code (actual reduction to practice) submitted on February 03, 2010 is considered to be proprietary information and that it be expunged from the record if not found to be material to the patentability of the application. The proprietary document was filed in accordance to MPEP § 724.02

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed

from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Lynda Jasmin at (571) 272-6782.

Greg Vidovich, Director
Technology Center 3600
(571) 272-5350

gv/lj: 2/15/2012

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED
FEB 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,493,944	:	
Issued: February 24, 2009	:	
Application No. 10/947,778	:	ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. 53250/CM/D190	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 11, 2011 and October 15, 2009.

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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Pequignot + Myers LLC
140 Marine View Avenue
Suite 220
Solana Beach CA 92075

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Application of	: DECISION ON PETITION
Klotz et al.	: UNDER 37 CFR 1.78(a)(3)
Application No. 10/947,818	: and
Filed: September 22, 2004	: DECISION ON PETITION
Attorney Docket No. 48-52 US	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the PETITION TO ADD UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER C.F.R. 37 §1.78(a)(3), filed February 17, 2010, to accept an unintentionally delayed claim to two prior-filed applications 10/661,901 and 60/411,027.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR §1.78(a)(2)(i) and 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, 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 37 CFR 1.78(a)(5)(ii), respectively, and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

With respect to 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6), this pending nonprovisional application was filed on September 22, 2004. The filing date of provisional application No. 60/411,027, for which priority is claimed is September 16, 2002, and thus, was filed within twelve months of

intermediate application No. 10/661,901, filed September 12, 2003. The instant petition includes an unintentionally delayed claim for the benefit of priority of application No. 10/661,901 as a continuation-in-part application of this application.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 (or under 119(e)) is submitted after the filing of an application; the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(3) and/or (a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and (a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Receipt of the $1410 fee required by 37 CFR 1.78(a)(6)(ii) is acknowledged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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140 Marine View Avenue
Suite 220
Solana Beach CA 92075

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OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Klotz et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 10/947,818	:	and
Filed: September 22, 2004	:	DECISION ON PETITION
Attorney Docket No. 48-52 US	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the RENEWED PETITION TO ADD UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER C.F.R. 37 §1.78(a)(3), filed September 1, 2010, to accept an unintentionally delayed claim to two prior-filed applications 10/661,901 and 60/411,027.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR §1.78(a)(2)(i) and 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, 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 37 CFR 1.78(a)(5)(ii), respectively, and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

By decision mailed August 26, 2010, the initial petition was dismissed. The requirements of 37 CFR 1.78(a)(3) and (6) were met, except the amendment to add the references was not acceptable as drafted since it improperly incorporated by reference the prior-filed application. On instant renewed petition, applicant filed a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which did not include the incorporation by reference statement. Thus, it is concluded that all outstanding requirements have been met. The petitions under 37 CFR 1.78 are grantable.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. § 120 and 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and (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 application, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and §§119(e) and 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2462 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 (and 119(e)) of the prior-filed application) as set forth in the amendment filed September 1, 2010, and to await applicant's response to the non-final Office action mailed September 8, 2010. This decision in no way tolls the period for reply to the Office action.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/947,818	09/22/2004	2462	952	48-52 US	20	3

CONFIRMATION NO. 1763

CORRECTED FILING RECEIPT

44362
Pequignot + Myers LLC
90 North Coast Highway 101
Suite 208
Encinitas, CA 92024

OC000000043714029

Date Mailed: 09/27/2010

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)

Steven Ronald Klotz, Austin, TX;
Jason David Mann, Austin, TX;
Timothy Lane McDaniel, Austin, TX;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/504,751 09/22/2003
and claims benefit of 60/504,811 09/22/2003
and is a CIP of 10/661,901 09/12/2003
which claims benefit of 60/411,027 09/16/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/947,818**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Protocol cross-port analysis

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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In re Patent No. 7245201
Issue Date: July 17,2007
Application No. 10947929
Filed: September 23,2004
Attorney Docket No. CRNT-0216-US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 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 February 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.

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)
7245201	2007-07-17	10/947,929	2004-09-23	CRNT-0216

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

● The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Andrew Rosenstein/	Date (YYYY-MM-DD)	2012-02-06
Name	Andrew Rosenstein		
Enter Reel and Frame Number		Remove	
Reel Number	017801	Frame Number	0115
Enter Reel and Frame Number		Remove	
Reel Number	017765	Frame Number	0575
Enter Reel and Frame Number		Remove	
Reel Number	018009	Frame Number	0937
Enter Reel and Frame Number		Remove	
Reel Number	020518	Frame Number	0001
Enter Reel and Frame Number		Remove	
Reel Number	021096	Frame Number	0131
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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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT B. WINTER
US PATENT OPERATIONS/RBW
DEPT. 4300, M/S 27-4-A, AMGEN INC.
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

MAILED
OCT 29 2010
OFFICE OF PETITIONS

In re Application of	:	
Colin R. Dunstan	:	
Application No. 10/948,053	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. A-605A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 24, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 25, 2009. A Notice of Abandonment was mailed January 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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GAZDZINSKI & ASSOCIATES, PC
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO CA 92127

MAILED
NOV 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Hogan	:	
Application No. 10/948,272	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. HOGAN.001CP1	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed May 19, 2011, to revive the above-identified application. In this limited instance the petition will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED** to the extent indicated.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action, which was mailed on August 20, 2010. The final Office Action set a three (3) month shortened statutory period for reply. An amendment and terminal disclaimer were submitted on September 13, 2010. In response an Advisory Action was mailed on October 27, 2010 indicating the terminal disclaimer submitted on September 13, 2010 was disapproved. Accordingly, this application was held abandoned on November 21, 2010. A Notice of Abandonment was mailed on May 6, 2011.

Petitioner filed a petition under 37 CFR 1.137(a) which argued that the disapproval of the terminal disclaimer filed on September 13, 2010 was improper.

A review of the record shows that a declaration and power of attorney filed on December 20, 2004 did not list attorney Gutierrez. As such Office records established that power of attorney was not authorized for attorney Gutierrez, thus attorney Gutierrez was acting in representative capacity pursuant to 37 CFR 1.34. A person acting in a representative capacity may not sign a terminal disclaimer (37 CFR 1.321(b)(1)(iv)). See MPEP 402. Thus, the submission of the terminal disclaimer filed by attorney Gutierrez on September 13, 2010 was properly disapproved. A properly signed terminal disclaimer was not provided until November 29, 2010.

However, further review of the record shows that a properly signed terminal disclaimer, which was approved by the Office, and a general authorization to charge deposit account 50-1423 were submitted on November 29, 2010. Accordingly the November 29, 2010 terminal disclaimer was timely submitted.

The one month extension of time fee $65.00 will be charged to deposit account 50-1423.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to art unit 3781 for review of the reply submitted November 29, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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ESCHWEILER & ASSOCIATES LLC
629 EUCLID AVENUE, SUITE 1000
NATIONAL CITY BUILDING
CLEVELAND OH 44114

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,746,869	:	
Issue Date: 06/29/2010	:	
Application Number: 10/948,337	:	ON PETITION
Filing or 371(c) Date: 09/24/2004	:	
Attorney Docket Number: INFAP141US	:	

This is a decision in reference to the paper filed on March 2, 2011, which is treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction correcting the assignee's name to --Infineon Technologies Taiwan Co. Ltd., Hsin-Chu City (TW)--.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) **and the processing fee set forth in § 1.17(i) of this chapter** [emphasis added]. *See also* MPEP 1481.01.

The petition must be dismissed because the processing fee set forth in § 1.17(i) (currently $130.00) has not been paid. Further, no authorization has been provided to charge the processing fee to a deposit account.

Any renewed request must be accompanied by payment of the $130.00 processing fee.

Telephone inquiries concerning this decision on petition 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,592,419	: DECISION ON REQUEST
Issued: September 22, 2009	: FOR RECONSIDERATION
Application No. 10/948,367	: OF PATENT TERM ADJUSTMENT
Filed: September 23, 2004	: AND
Attorney Docket No. IN06005US01	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT DETERMINATION" filed November 12, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 477 days to 514 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by five hundred fourteen (514) days and is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred fourteen (514)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,419 B2

DATED : September 22, 2009

INVENTOR(S) : Srikanth Venkatraman

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 (477) days

Delete the phrase "by 477 days" and insert – by 514 days--

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MAY 26 2011

Myers, Andras, Sherman, LLP
19900 MacArthur Blvd.
Suite 1150
Irvine, CA 92612

In re Application of:	:	
Alan Messer et al.	:	
Application No.: 10/948,399	:	DECISION TO PETITION
Filed: September 22, 2004	:	TO EXPUNGE FILED
For: METHOD AND SYSTEM FOR THE	:	UNDER 37 CFR 1.59(b)
ORCHESTRATION OF TASKS ON	:	
CONSUMER ELECTRONICS	:	

This is a decision on the petition under 37 CFR 1.59(b), filed on February 26, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the Proprietary Phase 3 Source Code submitted on February 26, 2010 is considered to be proprietary information and that it be expunged from the record if not found to be material to the patentability of the application. The proprietary document was filed in accordance to MPEP § 724.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Lynda Jasmin at (571) 272-6782.

Wynn W. Coggins, Director
Technology Center 3600
(571) 272-5350

lj: 5/19/11

LM.

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.
10/948,399	09/22/2004	Alan Messer	SISAP168/ADV03-CE03	9663

93650 7590 06/13/2011
Beyer Law Group LLP/ SISA
P.O. Box 1687
Cupertino, CA 95015-1687

EXAMINER
PARKER, BRANDI P

ART UNIT	PAPER NUMBER
3624	

NOTIFICATION DATE	DELIVERY MODE
06/13/2011	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):

USPTOmail@beyerlaw.com

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JUN 1 0 2011

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Myers, Andras, Sherman, LLP
19900 MacArthur Blvd.
Suite 1150
Irvine, CA 92612

In re Application of:	:	
Alan Messer et al.	:	
Application No.: 10/948,399	:	DECISION TO PETITION
Filed: September 22, 2004	:	TO EXPUNGE FILED
For: METHOD AND SYSTEM FOR THE	:	UNDER 37 CFR 1.59(b)
ORCHESTRATION OF TASKS ON	:	
CONSUMER ELECTRONICS	:	

This is a decision on the petition under 37 CFR 1.59(b), filed on February 26, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the Proprietary Phase 3 Source Code submitted on February 26, 2010 is considered to be proprietary information and that it be expunged from the record if not found to be material to the patentability of the application. The proprietary document was filed in accordance to MPEP § 724.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Lynda Jasmin at (571) 272-6782.

Wynn W. Coggins, Director
Technology Center 3600
(571) 272-5350

lj 5/19/11

SM

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Ossama Emam	:	
Application No. 10/948,443	:	DECISION ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. N0484.70680US00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 10, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 11, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 2626 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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Knobbe, Martens, Olson & Bear
2040 Main Street
14th Floor
irvine CA 92614

MAILED
MAR 07 2012
OFFICE OF PETITIONS

In re Patent No. 7,428,277 :
Issue Date: September 23, 2008 :
Application No. 10/948,463 :
Filed: September 24, 2004 :
Attorney Docket No. QSPN.032A (103167) :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 7, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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AUG 09 2011
OFFICE OF PETITIONS

DUANE MORRIS LLP - NY
PATENT DEPARTMENT
1540 BROADWAY
NEW YORK, NY 10036-4086

In re Patent of Wright IV et al.	:	
Patent No. 7,384,653	:	
Issue Date: June 10, 2008	:	Decision on Petition
Application No. 10/948,575	:	
Filing Date: September 23, 2004	:	
Attorney Docket No. Y2428-00161	:	

This is a decision on the petition under 37 C.F.R. § 1.181 filed May 5, 2010. The Office regrets the delay in the issuance of the instant decision.

The petition is **dismissed**.

Any request for reconsideration 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.181."

Background

Application No. 10/948,575 was filed September 23, 2004.

The transmittal sheet filed September 23, 2004, indicated the application is a continuation of Application No. 10/208,817.

The first sentence of the specification filed September 23, 2004, states, "This application claims the benefit of U.S. Provisional Application No. 60/309,791, filed August 6, 2001, the disclosure of which is incorporated by reference herein in its entirety."

The Office issued a filing receipt on December 15, 2004. The filing receipt includes the following language:

> This application is a CON of 10/208,817 08/01/2002 ABN
> which claims benefit of 60/309,791 08/06/2001

The application issued as Patent No. 7,384,653 on June 10, 2008. The face of the patent does not set forth any priority information.

A request for a certificate of correction was filed December 4, 2008. The request sought issuance of a certificate of correction stating,

> On the title page, following field (65) and associated data, insert --Related U.S. Application Data
> (60) Provisional application No. 60/309,791, filed August 6, 2001.
> (63) Continuation of U.S. application No. 10/208,817, filed August 1, 2002, now abandoned.--
>
> In addition, at column 1, line 5, after the sentence, "This application claims the benefit of U.S. Provisional Application No. 60/309,791, filed August 6, 2001, the disclosure of which is incorporated by reference herein in its entirety.", insert the following sentence, --This application is a continuation of U.S. application no. 10/208,817, filed August 1, 2002, now abandoned, the disclosure of which is incorporated by reference herein in its entirety.--

The Office issued a decision dismissing the December 4, 2008 request on March 26, 2009. The decision stated the language incorporating by reference Application No. 10/208,817 raised the issue of new matter.

A second request for a certificate of correction was filed September 28, 2009. The request sought issuance of a certificate of correction stating,

> On the title page, following field (65) and associated data, insert
>
> --Related U.S. Application Data
>
> (60) Provisional application no. 60/309,791, filed August 6, 2001
>
> (63) Continuation of U.S. application no. 10/208,817, filed August 1, 2002, now abandoned.--
>
> In addition, at column 1, line 8, after the sentence, "This application claims the benefit of U.S. Provisional Application No. 60/309,791, filed August 6, 2001, the disclosure of which is incorporated by reference herein in its entirety." please insert the following sentence:
>
> --This application is a continuation of U.S. application no. 10/208,817, filed August 1, 2002, now abandoned.--

On November 9, 2009, the Office issued a decision dismissing the September 28, 2009, request. The decision asserted the incorporation by reference statement appears to be new matter even though the second requested certificate of correction did not include language incorporating

Application No. 10/208,817. The decision also incorrectly asserted, "The request filed on 09/28/2009 appears to be a duplicate of the request filed 12/04/2008."

A request for reconsideration of the November 9, 2009 decision was filed January 21, 2010.

On March 11, 2010, the Office issued a decision dismissing the request for reconsideration. The March 11, 2010 decision states, "the correction of priority data requires a petition under 37 CFR 3.81."

The instant petition seeking review of the March 11, 2010 decision was filed May 5, 2010. The petition notes 37 C.F.R. § 3.81 "has nothing to do with correcting erroneous priority data."

Analysis

A Petition under 37 C.F.R. § 3.81 is not Necessary.

A request for a certificate of correction to add a priority claim does not require the submission of a petition under 37 C.F.R. § 3.81.

The Priority Claim under 35 U.S.C. § 119(e) is Improper.

The instant application *directly* claims the benefit of Application No. 60/309,791 via the first sentence of the specification. The requested certificate of correction does not seek to make any change to the first sentence of the specification.

A nonprovisional application must be filed within twelve months of the filing date of a provisional application to *directly* claim the benefit of the provisional application. The instant application was filed more than twelve months after the provisional application's filing date. Therefore, the priority claim directly claiming the benefit of the provisional application is improper.

Since the priority claim under 35 U.S.C. § 119(e) is improper, issuance of a certificate of correction with the following language would be improper:

> On the title page, following field (65) and associated data, insert
> --Related U.S. Application Data
> (60) Provisional application no. 60/309,791, filed August 6, 2001

Unfortunately, the priority claim under 35 U.S.C. § 119(e) cannot be corrected by the issuance of a certificate of correction. MPEP § 1481.03(II)(B) states, with emphasis added,

> Under *no circumstances* can a Certificate of Correction be employed to correct an applicant's mistake by adding *or correcting* a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000.

Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119(e)(1) to state that:

> No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section during the pendency of the application. (emphasis added).

A Certificate of Correction is NOT a valid mechanism for adding *or correcting* a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000.

In view of the quoted language set forth above, a certificate of correction cannot be issued to correct the priority claim under 35 U.S.C. § 119(e).

<u>A Petition under 37 C.F.R. § 1.78 is not Necessary to Add the Priority Claim under 35 U.S.C. § 120.</u>

Although a request for a certificate of correction to add a priority claim does not require the submission of a petition under 37 C.F.R. § 3.81, such a request usually requires the submission of a petition under 37 C.F.R. § 1.78. MPEP 1481.03(II)(B) states,

> Under certain conditions as specified below, however, a Certificate of Correction can still be used, with respect to 35 U.S.C. 120 priority, to correct:
> (A) the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2); or
> (B) an incorrect reference to a prior copending application pursuant to 37 CFR 1.78(a)(2).
>
> Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:
> (A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;
> (B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and
> (C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).
>
> If all the above-stated conditions are satisfied, a Certificate of Correction can be used to amend the patent to make reference to a prior copending application, or to correct an

incorrect reference to the prior copending application, for benefit claims under 35 U.S.C. 120 and 365(c).

Despite the quoted language from MPEP § 1481.03(II)(B), a petition under 37 C.F.R. § 1.78 is not necessary in this case.

Where a claim for priority under 37 C.F.R. § 1.78 is not included in the first sentence of the specification or in an ADS, but does appear either in the oath or declaration or a transmittal letter filed with the application, *and* the Office notes the claim for priority, the Office will not require a petition under 37 C.F.R. § 1.78. The transmittal letter filed with the application included a priority claim based on Application No. 10/218,817, and the Office noted the claim as shown by the fact the filing receipt mailed December 15, 2004 included the priority claim. Therefore, a petition under 37 C.F.R. § 1.78 is unnecessary.

The Office notes the transmittal letter did not include a benefit claim based on Provisional Application No. 60/309,791. Therefore, a petition under 37 C.F.R. § 1.78 would be necessary to correct the priority claim under 35 U.S.C. § 119(e) *if* the claim could be corrected via the issuance of a certificate of correction.

Conclusion

The requested certificate of correction seeks to add information to the face of the patent, which would indicate the patent properly claims priority to Provisional Application No. 60/309,791. However, the claim for the benefit of Provisional Application No. 60/309,791 is improper. Therefore, issuance of the requested certificate of correction would be improper.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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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DUANE MORRIS LLP - NY
PATENT DEPARTMENT
1540 BROADWAY
NEW YORK, NY 10036-4086

MAILED

DEC 07 2011

OFFICE OF PETITIONS

In re Patent of Wright IV et al.	:	
Patent No. 7,384,653	:	
Issue Date: June 10, 2008	:	Decision on Petition
Application No. 10/948,575	:	
Filing Date: September 23, 2004	:	
Attorney Docket No. Y2428-00161	:	

This is a decision on the petition under 37 C.F.R. § 1.181 filed October 11, 2011. The Office regrets the delay in the issuance of the instant decision.

The petition is **dismissed**.

Any request for reconsideration 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.181."

Background

Application No. 10/948,575 was filed September 23, 2004.

The first sentence of the specification filed September 23, 2004, states, "This application claims the benefit of U.S. Provisional Application No. 60/309,791, filed August 6, 2001, the disclosure of which is incorporated by reference herein in its entirety."

The Office issued a filing receipt on December 15, 2004. The filing receipt includes the following language:

> This application is a CON of 10/208,817 08/01/2002 ABN
> which claims benefit of 60/309,791 08/06/2001

The application issued as Patent No. 7,384,653 on June 10, 2008. The face of the patent does not set forth any priority information.

Petitioner seeks issuance of a certificate of correction stating,

> On the title page, following field (65) and associated data, insert
>
> --Related U.S. Application Data
>
> (60) Provisional application no. 60/309,791, filed August 6, 2001
>
> (63) Continuation of U.S. application no. 10/208,817, filed August 1, 2002, now abandoned.--
>
> In addition, at column 1, line 8, after the sentence, "This application claims the benefit of U.S. Provisional Application No. 60/309,791, filed August 6, 2001, the disclosure of which is incorporated by reference herein in its entirety." please insert the following sentence:
>
> --This application is a continuation of U.S. application no. 10/208,817, filed August 1, 2002, now abandoned.--

The Office has previously determined the requested certificate of correction is proper to the extent the certificate seeks to add information indicating the application is a continuation of Application No. 10/208,817. The only issue in dispute is the propriety of the issuance of a certificate of correction indicating the application is entitled to the benefit of Provisional Application No. 60/309,791.

Discussion

M.P.E.P. § 2011.11(III)(C) states, with emphasis added,

> Although an application that itself directly claims the benefit of a provisional application is not required to specify the relationship to the provisional application, if the instant nonprovisional application is not filed within the 12 month period, but claims the benefit of an intermediate nonprovisional application under 35 U.S.C. 120 that was filed within 12 months from the filing date of the provisional application and claimed the benefit of the provisional application, the intermediate application *must* be clearly identified as claiming the benefit of the provisional application.

The instant application was not filed within twelve months of the provisional application's filing date. In addition, the specification does not include a priority claim under 35 U.S.C. § 120 based on intermediate Application No. 10/208,817 or indicate Application No. 10/208,817 is claiming the benefit of the provisional application. Therefore, the specification does not include a proper benefit claim under 35 U.S.C. § 119(e).

A certificate of correction cannot be used to correct a priority claim under 35 U.S.C. § 119(e).

M.P.E.P. § 1481.03(II)(B) states, with emphasis added,

> Under no circumstances can a Certificate of Correction be employed to correct an applicant's mistake by adding *or correcting* a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000.
>
> Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119(e)(1) to state that:
>
>> No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section during the pendency of the application. (emphasis added).
>
> A Certificate of Correction is NOT a valid mechanism for adding or correcting a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000.

In view of the fact a certificate of correction cannot be issued to correct the priority claim under 35 U.S.C. § 119(e), Patentees may not correct the priority claim via issuance of a certificate of correction.[1]

Conclusion

The requested certificate of correction seeks to add information to the face of the patent, which would indicate the patent properly claims priority to Provisional Application No. 60/309,791. However, the claim for the benefit of Provisional Application No. 60/309,791 is improper. Therefore, issuance of the requested certificate of correction would be improper.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

[1] Since a priority claim under 35 U.S.C. § 119(e) cannot be corrected via issuance of a certificate of correction, the Office need not determine if a Rule 78 petition would be necessary

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[2] Document Code "PET.OP" should be used if the request is filed electronically.

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

cc: WLP Law Group
Suite 210
1979 Marcus Avenue
Lake Success, NY 11042

[2] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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www.uspto.gov

In re Patent No. 7213445
Issue Date: May 8,2007
Application No. 10948617
Filed: September 23,2004
Attorney Docket No. 67,021-007

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 6,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 6,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7213445	2007-05-08	10948617	2004-09-23	67021-007;00-521

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John E. Carlson/	Date (YYYY-MM-DD)	2011-07-06
Name	John E. Carlson	Registration Number	37794

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MAILED
MAY 24 2011
OFFICE OF PETITIONS

Michael F. Kreiger
Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84145

In re Application of	:
JENSEN et al.	:
Application No. 10/948,815	: DECISION ON PETITIONS
Filing Date: September 23, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10209.599	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and 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 does not comply with item **(1)**.

A nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. 119(e) must be filed within 12 months from the filing date of the provisional application. Here, nonprovisional applications 10/948,815 and 10/396,868 were not filed within 12 months of the Provisional application 60/458,353. Since nonprovisional applications 10/948,815 and 10/396,868 were not filed within 12 months of the Provisional application

60/458,353, the specific nonprovisional application that claims benefit to 60/458,353 must be identified. Furthermore, nonprovisional application serial no. 10/396,868 may not claim benefit of provisional application serial no. 60/458,353, as provisional application serial no. 60/458,353 is a later filed application.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i).

Furthermore, petitioner should clarify that it is "this application" that application serial no. 10/396,868 is a continuation-in-part of and also that it is "this application" that application serial no. 10/006,014 is a continuation-in-part of. See line 7 of the amendment. Additionally, in line 8, "10/286/167" should be corrected to read --10/286,167 --.

In regards to item (3), 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 35 U.S.C. 120; 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application(s) to this application, are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Director for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street

Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUHLER ASSOCIATES
BUHLER, KIRK A.
1101 CALIFORNIA AVE.
SUITE 208
CORONA CA 92881

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	
May	:	
Application No. 10/948,849	:	DECISION ON PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RM01-23R	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 7, 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 on November 3, 2009.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

The amendment as drafted is unacceptable because a review of Office databases reveals that there are gaps in the asserted continuity chain. A review of Office databases reveals (1) Application No. 09/756,479 does not contain a claim for benefit of Application No. 09/507,800; (2) Application No. 09/507,800 does not contain a claim for benefit of Application No.

09/497,266; and (3) Application No. 09/497,266 does not contain a claim for benefit of Application No. 09/497,265.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), are required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BUHLER ASSOCIATES
BUHLER, KIRK A.
1101 CALIFORNIA AVE.
SUITE 208
CORONA CA 92881

MAILED
JAN 11 2011
OFFICE OF PETITIONS

In re Application of	:	
May	:	
Application No. 10/948,849	:	DECISION ON PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RM01-23R	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 16, 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 petition.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that

each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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BUHLER, KIRK A.
1101 CALIFORNIA AVE.
SUITE 208
CORONA CA 92881

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
May	:	
Application No. 10/948,849	:	DECISION GRANTING PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RM01-23R	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 21, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the accompanying amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2832 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/948,849	09/24/2004	2832	485	RM01-23R	16	2

CONFIRMATION NO. 5012

CORRECTED FILING RECEIPT

37038
BUHLER ASSOCIATES
BUHLER, KIRK A.
1101 CALIFORNIA AVE.
SUITE 208
CORONA, CA 92881

OC000000045919849

Date Mailed: 02/09/2011

Receipt is acknowledged of this reissue patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Randall L. May, Irvine, CA;

Power of Attorney: The patent practitioners associated with Customer Number 37038

Domestic Priority data as claimed by applicant

This application is a REI of 10/170,005 06/10/2002 PAT 6,770,805
which is a DIV of 09/756,479 01/08/2001 PAT 6,403,869
which is a CIP of 09/507,800 02/22/2000 PAT 6,172,290
which is a CIP of 09/497,266 02/03/2000 PAT 6,329,583
which is a CIP of 09/497,265 02/03/2000 PAT 6,323,407
which is a CIP of 08/976,999 11/24/1997 PAT 6,028,257
which is a CIP of 08/588,244 01/18/1996 PAT 5,691,492

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 10/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/948,849**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Carrier assembly for percussion instruments

Preliminary Class

084

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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BUHLER, KIRK A.
1101 CALIFORNIA AVE.
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CORONA CA 92881

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Patent No. RE42487 : DECISION UNDER 37 CFR 1.183
Issued: June 28, 2011 :
Application No. 10/948,849 :
Filing or 371(c) Date: September 24, 2004 :
Dkt. No.: RM01-23R :

This is a decision on the petition under 37 CFR 1.183, filed October 6, 2011, wherein patentee requests waiver of 35 USC 251 in order that the above-identified reissue patent may avail itself to the provisions of 37 CFR 1.705(d).

In accordance with 37 CFR 1.183, "[i]n 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)." (Emphasis added.)

In accordance with 35 USC 251, "[w]henever any patent is, through error without any deceptive intention, deemed wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than he had a right to claim in the patent, the Director shall, on the surrender of such patent and the payment of the fee required by law, reissue the patent for the invention disclosed in the original patent, and in accordance with a new and amended application, *for the unexpired part of the term of the original patent.* No new matter shall be introduced into the application for reissue." (Emphasis added.)

The aforementioned statute prohibits the accordance of patent term adjustment or extension to a reissue patent. As the term of a reissue patent is not subject to waiver, the petition under 37 CFR 1.183 is hereby DISMISSED.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

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)
6962424	2005-11-08	10948854	2004-09-24	ITL.0798D2US (P12505D)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	◯	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-13
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6962424
Issue Date: November 8,2005
Application No. 10948854
Filed: September 24,2004
Attorney Docket No. ITL.0798D2US (P12505D2)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : July 27,2011

In re Application of :

Kevin Koch

Application No : 10948889

Filed: 23-Sep-2004

Attorney Docket No : 52438.830011.US1

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed July 27,2011

The request is **APPROVED**

The request was signed by Brian Kinnear (registration no. 43717) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Jaclyn Sprtel
Name2	Thomson Reuters
Address 1	610 Opperman Drive
Address 2	
City	Eagan
State	MN
Postal Code	55123
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

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	10948889
Filing Date	23-Sep-2004
First Named Inventor	Kevin Koch
Art Unit	2177
Examiner Name	ADAM QUELER
Attorney Docket Number	52438.830011.US1
Title	ELECTRONIC DOCUMENT WITH SELECTIVELY EDITABLE FIELDS AND METHODS FOR SAME

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Jaclyn Sprtel Thomson Reuters
Address	610 Opperman Drive
City	Eagan
State	MN
Postal Code	55123
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Brian Kinnear/
Name	Brian Kinnear
Registration Number	43717

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 27 2010

OFFICE OF PETITIONS

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:	
Daniel P. Gold	:	
Application No.: 10/948894	:	DECISION ON
Filing or 371(c) Date: 09/23/2004	:	PETITION
Attorney Docket Number: P09580US01	:	

This is a decision in response to the renewed Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed August 25, 2010, and supplemented October 13, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed February 19, 2008. The Office communication set a one (1) month or 30 day period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 20, 2008. A Notice of Abandonment was mailed September 5, 2008.

Applicant files the present petition and response to the Office communication. 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 response to the Restriction/Election Requirement (filed March 18, 2010); (2) the petition fee (filed March 18, 2010); and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center Art Unit 1664 for processing of the response in due course.

Telephone inquiries concerning this petition 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
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KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE CA 92612

MAILED
MAR 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Kazuhito TAKAGI	:	
Application No. 10/949,169	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. 1233-001.101	:	

This is a decision on the petition, filed October 12, 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 non-final Office action mailed February 05, 2010, which set a three (3) month shortened statutory period for reply. The application became abandoned on May 06, 2010. There was not a notice of abandonment mailed.

Petitioner asserts that the non-final Office action dated February 05, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to the Technology Center technical support staff of Art Unit 3625 for re-mailing the Office action of February 05, 2010. The period for reply will run from the mailing date of the Office action.

/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

Decision Date : April 10, 2012

In re Application of :

Ken Mashitani

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10949528

Filed : 27-Sep-2004

Attorney Docket No : 065933-0116

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 10, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2624 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	10949528
Filing Date	27-Sep-2004
First Named Inventor	Ken Mashitani
Art Unit	2624
Examiner Name	ALEX KOK LIEW
Attorney Docket Number	065933-0116
Title	METHOD AND APPARATUS FOR PROCESSING THREE-DIMENSIONAL IMAGES

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	/TOMOKI TANIDA/
Name	TOMOKI TANIDA
Registration Number	60453

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Evangeline Cruz	:	
Application No. 10/949,687	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. ALZ5131USANP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 23, 2009, no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned by operation of law on February 24, 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 a continuing application, (2) the petition fee of $1,620 , and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application number 12/953,247.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

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MAILED

DEC 13 2010

OFFICE OF PETITIONS

GERON CORPORATION
Attn. David J. Earp
230 CONSTITUTION DRIVE
MENLO PARK CA 94025

In re Patent No. 7,799,324	:
Bhatia et al.	: DECISION ON REQUEST FOR
Issue Date: September 21, 2010	: RECONSIDERATION OF
Application No. 10/949,702	: PATENT TERM ADJUSTMENT
Filed: September 24, 2004	:
Attorney Docket No. 131/011P	:
Title: USING UNDIFFERENTIATED	:
EMBRYONIC STEM CELLS TO CONTROL	:
THE IMMUNE SYSTEM	:

This is a decision on the petition filed on November 8, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-three (593) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 502 (419 + 83) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 449 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 25, 2007 and ends on December 16, 2008, the day before the RCE was filed, and is 449 days. See 35 U.S.C. 154(b)(1)(B)(i).

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed September 18, 2008. The reduction of 90 days commenced September 18, 2008; the date that

the Notice of Appeal was filed, and ended December 16, 2008, the day before the filing of the request for continued examination. See, 37 CFR 1.703(b)(4).

Patentees' delay total 359 days.

In view thereof, the patent is entitled to an overall adjustment of 502 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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BROOKS, CAMERON & HUEBSCH , PLLC
1221 NICOLLET AVENUE , SUITE 500
MINNEAPOLIS MN 55403

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Mahlon L. Moore, et al.	:	
Application No. 10/949,749	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. 241.0020001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 20, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 21, 2009. The Notice of Abandonment was mailed October 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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ORNL-UTB-LUEDEKA, NEELY & GRAHAM
P.O. BOX 1871
KNOXVILLE TN 37901

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,678,329 :
Issue Date: March 16, 2010 :
Application No. 10/949,854 : DECISION ON PETITION
Filed: September 24, 2004 :
Attorney Docket No. 1348C :

This is a decision on the Petition To Correct Assignee Information Pursuant To 37 C.F.R. §3.81(b), filed April 6, 2010, to identify the correct assignee's name to the Title Page of the Patent via a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests that the present Petition was submitted to identify the correct assignee's name on the previously submitted PTOL-85B and such error was inadvertent.

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 Under 37 CFR §3.81(b) was not accompanied by a Certificate of Correction Form (PTO/SB/44) as required by §3.81(b), and a petition processing fee of $130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i). ***See also* MPEP 1481.01**. Since petitioner has failed to comply with the provisions of 37 CFR §3.81(b), the petition is dismissed.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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P.O. BOX 1871
KNOXVILLE TN 37901

MAILED
APR 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,678,329
Issue Date: March 16, 2010
Application No. 10/949,854
Filed: September 24, 2004
Attorney Docket No. 1348C

DECISION ON PETITION

This is a decision on the Renewed Petition To Correct Assignee Information Pursuant To 37 C.F.R. §3.81(b), filed March 31, 2011, to identify the correct assignee's name and residence. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The renewed petition under 37 CFR §3.81(b) is **GRANTED**.

The petition decision mailed March 22, 2011, dismissed the 37 CFR §3.81(b) petition filed April 6, 2010, because the petition was not accompanied by a Certificate of Correction Form (PTO/SB/44) as required by §3.81(b), and a petition processing fee of $130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i). The renewed petition includes the required form and processing fee.

Notwithstanding, Petitioner urges that the assignee's name and residence -- UT-Battelle, LLC; One Bethel Valley Road; 4500N, MS-6258; Oak Ridge, Tennessee 37831-6258-- be printed on the Title Page of the patent. However, the PTOL-85B, item 3, requests that applicants provide the (1) "NAME OF THE ASSIGNEE" and (2) 'RESIDENCE: (CITY and STATE OR COUNTRY)" of the assignee to be printed on the patent. Since the PTOL-85B requests neither assignee's street address nor assignee's zip code, inclusion thereof, on the Title Page of the patent it is not appropriate.

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. 7,678,329.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 W. PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Roth et al.	:	
Application No. 10/950,074	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. NUA08-08	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2010 and the Supplemental petition filed August 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond on or before June 19, 2009, as required by the Notice of Allowance and Fee(s) Due mailed March 19, 2009. Accordingly, the date of abandonment of this application is June 20, 2009. A Notice of Abandonment was mailed July 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00 (previously paid December 12, 2008) and the required Part B PTOL-85 form; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY 26 2011

Beyer Law Group LLP/ SISA
P.O. Box 1687
Cupertino CA 95015-1687

In re Application of:	:	
Alan Messer et al.	:	
Application No.: 10/950,121	:	DECISION TO PETITION
Filed: September 24, 2004	:	TO EXPUNGE FILED
For: METHOD AND SYSTEM FOR	:	UNDER 37 CFR 1.59(b)
DESCRIBING CONSUMER	:	
ELECTRONICS USING SEPARATE	:	
TASK AND DEVICE DESCRIPTIONS	:	

This is a decision on the petition under 37 CFR 1.59(b), filed on February 04, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the Proprietary Phase 3 Source Code (actual reduction to practice) completed on September 03, 2003, and submitted on February 04, 2010 is considered to be proprietary information and that it be expunged from the record if not found to be material to the patentability of the application. The proprietary document was filed in accordance to MPEP § 724.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Lynda Jasmin at (571) 272-6782.

Wynn W. Coggins, Director
Technology Center 3600
(571) 272-5350

lj 5/23/11
TL

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.
10/950,121	09/24/2004	Alan Messer	SISAP156/ADV03-CE02	5003

93650 7590 10/24/2011
Beyer Law Group LLP/ SISA
P.O. Box 1687
Cupertino, CA 95015-1687

EXAMINER
PARKER, BRANDI P

ART UNIT	PAPER NUMBER
3624	

NOTIFICATION DATE	DELIVERY MODE
10/24/2011	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):

USPTOmail@beyerlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Beyer Law Group LLP/ SISA
P.O. Box 1687
Cupertino CA 95015-1687

In re Application of:	:	
Alan Messer et al.	:	
Application No.: 10/950,121	:	DECISION TO PETITION
Filed: September 22, 2004	:	TO EXPUNGE FILED
For: METHOD AND SYSTEM FOR	:	UNDER 37 CFR 1.59(b)
PRESENTING USER TASKS FOR THE	:	
CONTROL OF ELECTRONIC DEVICES	:	

This is a decision on the petition under 37 CFR 1.59(b), filed on February 03, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the Proprietary Phase 3 Source Code (actual reduction to practice) submitted on February 03, 2010 is considered to be proprietary information and that it be expunged from the record if not found to be material to the patentability of the application. The proprietary document was filed in accordance to MPEP § 724.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed

from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Lynda Jasmin at (571) 272-6782.

Wynn W. Coggins, Director
Technology Center 3600
(571) 272-5350

wc/lj: 10/03/11
LM

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DAVID K. LÚCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT CO 80503

MAILED
MAR 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,602,863 :
Issue Date: October 13, 2009 :
Application No. 10/950,312 : DECISION ON PETITION
Filed: September 24, 2004 :
Attorney Docket No. STL11718 :

This is a decision on the Request For Certificate of Correction, filed November 23, 2009, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct assignee's name on the previously submitted PTOL 85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Seagate Technology LLC, Scotts Valley, CA (US)"

to:

--Georgia Tech Research Corporation, Atlanta, GA (US)--

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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related 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. 7,602,863.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Kirk A. Cesari
Westman, Champlin & Kelly, P.A.
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3244

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 21 2010

OFFICE OF PETITIONS

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

In re Application of	:	
James Singh et al	:	
Application No. 10/950,354	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. T00104		

This is a decision on the petition, filed October 21, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 13, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
APR 16 2012
OFFICE OF PETITIONS

In re Application of :
Mueller et al. :
Application No. 10/950,395 : DECISION ON PETITION
Filed: September 28, 2004 :
Attorney Docket No. 2454.1101 :

This is a decision on the petition, filed February 29, 2012, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed April 12, 2011, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 30, 2012.

Petitioner asserts that the non-final Office action dated April 12, 2011 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm 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. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

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 1773 for re-mailing the non-final Office action of April 12, 2011. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: Ashikhmin 8-6 (A)-US-NP	Patent Number: 7,660,568
Filing Date (or 371(b) or (f) Date): September 27, 2004	Issue Date: February 9, 2010
First Named Inventor: Naresh Sharma	
Title: Method and apparatus for generating a channel estimate using a non-pilot portion of a signal	

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
www.uspto.gov

FLETCHER YODER (LUCENT)
P.O. BOX 692289
HOUSTON, TX 77069

Mail Date: 08/18/2010

Applicant	: Naresh Sharma	: DECISION ON REQUEST FOR
Patent Number	: 7660568	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/950,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1272** 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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OCT 06 2010
OFFICE OF PETITIONS

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of	:	
Butsev, et al.	:	
Application No. 10/950,776	:	ON REQUEST FOR
Filed: September 28, 2004	:	RECONSIDERATION OF
Attorney Docket Number: IMMR-IMD0188	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 6, 2010. Applicants believe that they should be accorded an additional PTA of 223 days. Applicants request this correction solely 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 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].

Applicants point out that they should have been assessed additional Applicant delay pursuant to 37 CFR 1.704(c)(10) for filing an IDS on March 15, 2010, after the Office had mailed a Notice of Allowance on December 14, 2010. Subsequent to the March 15, 2010 IDS, the Office mailed a new Notice of Allowance on April 5, 2010. Accordingly, pursuant to 37 CFR 1.704(c)(10), Applicant delay of 22 days should have been assessed.

In view thereof, the correct determination of PTA prior to issuance is **four hundred eighty-eight (488) days** (577 days of PTO delay, reduced by 89 (3+61+2+1+22) days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 16-1435, as authorized.

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

Enc: copy of PAIR screen

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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.

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10950776 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10950776

Application Filing Date	09/28/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	577
A Delays	577	PTO Manual Adjustment	-22
B Delays	0	Applicant Delay (APPL)	67
C Delays	0	Total PTA (days)	488

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
108	09/30/2010		P028	Adjustment of PTA Calculation by PTO		22	0
89	04/05/2010		MN/=.	Mail Notice of Allowance			0
88	04/03/2010		IREV	Issue Revision Completed			0
87	04/03/2010		DVER	Document Verification			0
86	04/03/2010		N/=.	Notice of Allowance Data Verification Completed			0
85	04/03/2010		DOCK	Case Docketed to Examiner in GAU			0
84	03/26/2010		CNTA	Notice of Allowability			0
78	03/16/2010		ABN9	Disposal for a RCE / CPA / R129			0
81	03/15/2010		IDSC	Information Disclosure Statement considered			0
80	03/15/2010		M844	Information Disclosure Statement (IDS) Filed			0
79	03/15/2010	03/14/2010	RCEX	Request for Continued Examination (RCE)		1	72
77	03/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
76	03/15/2010		BRCE	Workflow - Request for RCE - Begin			0
75	02/02/2010		FIDC	Finished Initial Data Capture			0
74	12/18/2009		EIDC	Export to Initial Data Capture			0
73	12/14/2009		MEX.A	Mail Examiner's Amendment			0
72	12/14/2009		MN/=.	Mail Notice of Allowance			0
71	12/09/2009		IREV	Issue Revision Completed			0
70	12/09/2009		DVER	Document Verification			0
69	12/09/2009		N/=.	Notice of Allowance Data Verification Completed			0
68	12/07/2009		EX.A	Examiner's Amendment Communication			0
66	12/07/2009		CNTA	Notice of Allowability			0
67	12/02/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
59	10/22/2009		FWDX	Date Forwarded to Examiner			0
58	10/13/2009		A...	Response after Non-Final Action			0
57	07/13/2009		MCTNF	Mail Non-Final Rejection			0
56	07/10/2009		CTNF	Non-Final Rejection			0
55	06/16/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
54	05/05/2009		FWDX	Date Forwarded to Examiner			0
52	05/05/2009		FWDX	Date Forwarded to Examiner			0
50	05/05/2009		ABN9	Disposal for a RCE / CPA / R129			0
53	05/04/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
51	05/04/2009	05/02/2009	RCEX	Request for Continued Examination (RCE)		2	43
49	05/04/2009		BRCE	Workflow - Request for RCE - Begin			0
48	04/14/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
47	04/13/2009		CTAV	Advisory Action (PTOL-303)			0
46	04/01/2009		C.AD	Correspondence Address Change			0
45	04/01/2009		FWDX	Date Forwarded to Examiner			0
44	03/31/2009		A.NE	Amendment after Final Rejection			0
43	02/02/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
42	01/30/2009		CTFR	Final Rejection			0
41	11/19/2008		FWDX	Date Forwarded to Examiner			0
40	11/11/2008		A...	Response after Non-Final Action			0
39	08/11/2008		MCTNF	Mail Non-Final Rejection			0
38	08/10/2008		CTNF	Non-Final Rejection			0
37	06/02/2008		FWDX	Date Forwarded to Examiner			0
35	06/02/2008		FWDX	Date Forwarded to Examiner			0
33	06/02/2008		ABN9	Disposal for a RCE / CPA / R129			0
36	05/28/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
34	05/28/2008	03/28/2008	RCEX	Request for Continued Examination (RCE)		61	30
32	05/28/2008		XT/G	Request for Extension of Time - Granted			0
31	05/28/2008		BRCE	Workflow - Request for RCE - Begin			0
30	12/28/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
29	12/21/2007		CTFR	Final Rejection			0
28	10/17/2007		FWDX	Date Forwarded to Examiner			0
27	10/01/2007	09/28/2007	A...	Response after Non-Final Action		3	26
26	06/28/2007	11/28/2005	MCTNF	Mail Non-Final Rejection	577		-1
25	06/23/2007		CTNF	Non-Final Rejection			0
24	05/04/2007		IDSC	Information Disclosure Statement considered			0
22	05/04/2007		RCAP	Reference capture on IDS			0
21	05/04/2007		M844	Information Disclosure Statement (IDS) Filed			0
20	05/04/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
19	04/11/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
18	04/10/2007		C.AD	Correspondence Address Change			0
17	10/19/2006		DOCK	Case Docketed to Examiner in GAU			0
16	07/17/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	07/17/2006		DOCK	Case Docketed to Examiner in GAU			0
14	07/17/2006		C.AD	Correspondence Address Change			0
13	07/17/2006		PA..	Change in Power of Attorney (May Include Associate POA)			0
12	07/17/2006		PA..	Change in Power of Attorney (May Include Associate POA)			0
11	04/26/2006		C.ADB	Correspondence Address Change			0
10	09/23/2005		C.AD	Correspondence Address Change			0
9	09/23/2005		PA..	Change in Power of Attorney (May Include Associate POA)			0
8	11/10/2004		WRDIPE	Application Return from OIPE			0
7	11/10/2004		ROIPE	Application Return TO OIPE			0
6	11/10/2004		OIPE	Application Dispatched from OIPE			0
5	11/10/2004		COMP	Application Is Now Complete			0
4	11/01/2004		L194	Cleared by OIPE CSR			0
3	11/01/2004		CLSS	CASE CLASSIFIED BY OIPE			0
2	10/16/2004		SCAN	IFW Scan & PACR Auto Security Review			0
1	09/28/2004		IEXX	Initial Exam Team nn			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/28/2010

TO SPE OF : ART UNIT 2617 Harper Vincent (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/950788 Patent No.: 7526294

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____ **SPE** _____ **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120419

DATE : April 19, 2012

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,526,299

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:

/RAFAEL PÉREZ-GUTIÉRREZ/
Supervisory Patent Examiner.Art Unit 2617

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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REISING, ETHINGTON, BARNES, KISSELLE
& LEARMAN, PC
5291 COLONY DRIVE NORTH
SAGINAW, MI 48603

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeff Traska	:	
Application No. 10/950,872	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 1597.3012.001	:	

This is a decision on the petition, filed August 19, 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above identified application. 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. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed November 13, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 5, 2009.

Petitioner asserts that the Office action dated November 13, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of November 13, 2008. In this regard, the Office action in question was mailed to John D. Wright at 5291 Colony Drive North, Saginaw, MI 48603. Office records indicate that a power of attorney was filed September 27, 2004 that was improper because it did not comply with the rules. *See MPEP 402.* A second power of attorney was filed July 30, 2008 requesting that the correspondence address be associated with customer number 23399. Since the request was

signed by an attorney at the request of the assignee but did not include a proper statement under 3.73(b). The request was not entered and placed in the filed. Until a proper power of attorney is received by the Office, will continue to directed to the address given in the oath/declaration.

402 states:

> a power of attorney that names more than ten patent practitioners will only be entered if Customer Number practice is used or if such power of attorney is accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office as being of record in the application or patent to which the power of attorney is directed. If a power of attorney is not entered because more than ten patent practitioners were named, a copy of the power of attorney should be refiled with the separate paper as set forth in 37 CFR 1.32(c)(3).

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 all the requirements to withdraw the holding of the abandonment in this application.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to the Technology Center technical support staff of Art Unit 3726 for re-mailing the Office action of November 13, 2008. The period for reply will run from the mailing date of the Office action.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Cc: RICHARD W. HOFFMANN
REISING ETHINGTON BARNES
KISSELLE, PC
PO BOX 4390
TROY, MI 48099-4390

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AZ PATENT LAW FIRM
P.O. Box 1921
Beltsville MD 20704

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SEP 03 2010

OFFICE OF PETITIONS

In re Application of	:	
RAJU V. CHILUVURI	:	DECISION ON APPLICATION
Application No. 10/951,066	:	FOR
Filed: 09/27/2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No. U04010	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT" filed January 23, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 925 days to 1119 days.

The application for patent term adjustment is **DISMISSED**.

Applicants seek the removal of the reduction of 116 days under 37 CFR 1.704(c)(7) for submission of a reply having an omission (i.e. a non-compliant amendment) on December 20, 2008. Applicants request that the Office reconsider whether the amendment of December 20, 2008, was, in fact, non-compliant as indicated in the Notice of Non-Compliant Amendment mailed on March 24, 2009. Specifically, applicants argue that the Notice of Non-Compliant Amendment was mailed in error and that the amendment of December 20, 2008, was completely responsive to the Office Action of September 23, 2008, and should have been entered. Furthermore, applicants argue that the PTO should be assessed a delay of 78 days for its failure to locate the marked-up claim file. However, applicants do not set forth the rule or statute relied up for the assessment of a period of adjustment for Office delay.

As stated in MPEP 2732,

> 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The reference to 37 CFR 1.135(c) is parenthetical because 37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq.

In this instance, applicants filed a response for which the examiner required correction. By Notice of Non-Compliant Amendment (37 CFR 1.121), applicants were advised of the omission in their amendment filed December 20, 2008, requiring correction. Furthermore, on April 15, 2009, without objection, applicants filed an amendment correcting the omission. Pursuant to 37 CFR 1.704(c)(7), entry of a period of reduction was warranted.

Furthermore, applicants' argument that the Office should be assessed a delay of 78 days is without merit. The record confirms that the Office responded to the reply under 35 U.S.C. 132 within four months after the date on which the reply was

filed. Accordingly, the Office did not fail to take actions within the specified time frame.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains 925 days.

The Office acknowledge the payment of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/951,117	09/27/2004	Alexei A. Erchak	L0655.70011US02	7716

72576 7590 09/13/2010
LUMINUS DEVICES , INC.
C/O WOLF, GREENFIELD & SACKS , P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER
MOVVA, AMAR

ART UNIT	PAPER NUMBER
2894	

NOTIFICATION DATE	DELIVERY MODE
09/13/2010	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):

Patents_eOfficeAction@WolfGreenfield.com
PAIR@WolfGreenfield.com
L0655_eOfficeAction@WolfGreenfield.com

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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HP

LUMINUS DEVICES, INC.
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

In re Application of: Alexei A. Erchak et al. Serial No.: 10/951,117 Filed: September 27, 2004 Attorney Docket No.: L0655.70011US02	: : : : :	DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A final Office action was mailed on January 21, 2009. A Notice of Appeal was timely filed on July 21, 2009, along a three-month extension of time request and requisite fees. To perfect the appeal, an Appeal Brief must be filed or other appropriate action must be taken within two months of the date of the notice of appeal. This time period may be extended under 37 CFR 1.136(a). The application was held abandoned and a Notice of Abandonment was mailed on January 5, 2010. Since the time for filing the appeal brief or for taking other appropriate action may be extended for up to a maximum five months from its due date of February 21, 2010, the application was improperly and prematurely held abandoned. A Request for Continued Examination (RCE) was timely filed on February 22, 2010 along with an extension of time and requisite fees.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending and under appeal status.

The RCE will be processed and returned to the examiner for further examination.

Any inquiry regarding this decision should be directed to Kimberly Nguyen, Supervisory Patent Examiner, at (571) 272-2404.

Edward Lefkowitz, Acting TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Decision Date : June 22,2011

In re Application of :

Barry Hudson

Application No : 10951297

Filed : 27-Sep-2004

Attorney Docket No : SEWLEX-7

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed June 22,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	10951297
Filing Date	27-Sep-2004
First Named Inventor	Barry Hudson
Art Unit	3676
Examiner Name	CARLOS LUGO
Attorney Docket Number	SEWLEX-7
Title	TAMPER EVIDENT SECURITY DEVICE HAVING A DOUBLE CLICK SEAL

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Leonard Tachner/
Name	Leonard Tachner
Registration Number	26344

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: Houck 7-2 (DJ)-US-NP	Patent Number: 7,660,243
Filing Date (or 371(b) or (f) Date): September 28, 2004	Issue Date: February 9, 2010
First Named Inventor: David J. Houck	
Title: Method for management of voice-over IP communications	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
25 James Way
Eatontown, NJ 07724

Mail Date: 08/13/2010

Applicant	: David J. Houck	: DECISION ON REQUEST FOR
Patent Number	: 7660243	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/951,429	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: 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.

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MCCARTER & ENGLISH, LLP
NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of :
Diane Velona :
Application No. 10/951,434 :
Filed: September 28, 2004 : ON APPLICATION FOR
Attorney Docket No. 99812-00002 : PATENT TERM ADJUSTMENT
Title: EDUCATIONAL TUITION :
SECURITIES SYSTEM :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING RULE 705(B) REQUEST FOR RECONSIDERATION" filed March 17, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred eighty-two (782) days, not five hundred fifty-seven (557) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/951,468	09/27/2004	Benjamin C. Chamberlain	MS309645.01/40062.246US01	2388

7590 10/25/2010
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
RUIZ, ANGELICA

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
10/25/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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October 22, 2010

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:	
Benjamin C. Chamberlain, et al	:	**DECISION ON PETITION**
Application No. 10951468	:	
Filed: 09/27/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. MS309645.01/40062.246US01	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) 09/27/2004.

The petition is **GRANTED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/
Manager
Office of Data Management
Publications Branch

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OCT 01 2010
OFFICE OF PETITIONS

ARYAN SAED
#51-1255 RIVERSIDE DR.
PORT COQUITLAM BC V3B 7W5 CA CANADA

In re Application of	:	
Aryan Saed	:	
Application No. 10/951,663	:	ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No.	:	

This is in response to the renewed communication, filed June 28, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On April 3, 2009, the Office mailed a Notice of Allowance and Issue Fee(s) Due (Notice), which set a three month shortened statutory period to reply. The application became abandoned on July 4, 2009, for failure to submit a timely reply to the April 3, 2009 Notice. On July 28, 2009, the Office mailed a Notice of Abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner continues to argue that the contact number listed in the application was incorrect; all contact information has been updated to that as per the change of address filed December 20, 2005. Further, petitioner continues to argue the position that he twice faxed an authorization to charge the issue and publication fees to a credit card, however, Office records indicate that he credit card form faxed on September 11, 2009 was incomplete and there is no record of a second credit card authorization received in the Office.

The petition has been reconsidered and request to withdraw the holding of abandonment remains **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement;

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP
390 Lytton Avenue
Palo Alto CA 94301

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of

McFadden, et al. :

Application No. 10/951,669

: DECISION ON PETITION

Filed: September 28, 2004

:

Attorney Docket No. **CLAR 1070-1**

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2010, 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 25, 2010, 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 26, 2010.

The amendment filed November 24, 2010, is noted.

The application is being forwarded to Technology Center 3600, GAU 3688 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Jeffrey A. McFadden et al. :
Application No. 10/951,669 : DECISION ON PETITION
Filed: December 22, 2006 : TO WITHDRAW
Attorney Docket No. CLAR 1070-1 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because there was no forwarding correspondence address. The forwarding address should be that of that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 1, 2011

In re Application of :

Jeffrey McFadden

Application No : 10951669

Filed : 28-Sep-2004

Attorney Docket No : 4001-0021

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed December 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 86636 .

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	10951669
Filing Date	28-Sep-2004
First Named Inventor	Jeffrey McFadden
Art Unit	3688
Examiner Name	CATHERINE TARAE
Attorney Docket Number	4001-0021
Title	Methods and apparatus for posting messages on documents delivered over a computer network

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 91944

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 86636

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Brian Siritzky/
Name	Brian Siritzky
Registration Number	37497

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/26/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10951748 Patent No.: 7307162

CofC mailroom date: 5/16/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Col. 5. line 27**

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1624

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

June 14, 2011

Patent No.: 7,628,474 B2
Applicant : Tsuyoshi Mita, et al.
Issued : December 8, 2009
For : **LIQUID DISCHARGING HEAD WITH RECESS IN VIBRATION PLATE**
Docket No. : **0879-0481PUS1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Respecting the alleged errors listed on PTO/SB/44 form, comparison of the printed patent with the corresponding locations in the application file reveals that there is no discrepancy. The patent presently reads with the requested changes to, Column 18, lines 49-50 (Claim 1, lines 13-14) delete "central region of said vibration plate" and add --central region where said piezoelectric element is joined to said vibration-- and Column 20, lines 2-3 (Claim 14, lines 13-14) delete "central region of said vibration plate" and add --central region where said piezoelectric element is joined to said vibration--. The examiner's amendment dated 10-27-2009 made this change and patent was printed in accordance with the record. Therefore, no change in the patent for claims 1 and 14 as requested by applicant, is required and certificate of correction is not warranted at this time.

In view of the foregoing, your request for certificate of correction is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Antonio Johnson
(571)272-0483
For Mary F. Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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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BUCHANAN, INGERSOLL
& ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of

Serguei, et al.

Application No. 10/951,908

Filed: September 29, 2004

Attorney Docket No. **1030681-000721**

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 16, 2008.

The petition is **dismissed**.

This application was held abandoned November 10, 2007, after no reply was received to the restriction/election requirement mailed October 9, 2007. The notice set forth a shortened statutory period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on November 10, 2007. A Notice of Abandonment was mailed May 1, 2008. The instant petition was filed on June 16, 2008. Petitioner maintains that the notice of October 9, 2007.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

Petitioner has not made the evidentiary showing specified above. Petitioner has not provided a copy of the master docket for the firm, but has only the docket for the subject application. Petitioner has also not indicated that a master docket for the firm does not exist. The petition is dismissed accordingly. The renewed petition must be accompanied by a copy of the firm's master docket record for the relevant period or a statement indicating that no such master docket for the firm exists.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

RSW IP Law
IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of :
Burckart et al. : DECISION ON
Application No. 10/952,106 : PETITION
Filed: September 28, 2004 :
Atty Docket No.RSW920040145US1:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 27, 2010.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed August 17, 2009. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply having been received and no extension of time obtained, the application became abandoned effective November 18, 2009. A courtesy Notice of Abandonment was sent on March 25, 2010.

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 2443 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on September 27, 2010.

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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VAN PELT, YI & JAMES LLP AND APPLE COMPUTER, INC.
10050 N. FOOTHILL BOULEVARD
SUITE 200
CUPERTINO CA 95014

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Williamson et al.	:	
Application No. 10/952,399	:	ON PETITION
Filed: 09/28/2004	:	
Attorney Docket No. P2123USC4	:	

This is in response to the petition filed on May 18, 2011.

On April 18, 2011, the Office mailed a Notice to File Corrected Application Papers, which set a period of one-month for petitioners to submit a declaration signed by inventor Richard Williamson. On May 18, 2011, petitioners filed the present petition, accompanied by a copy of the "RESPONSE TO DECISION REFUSING STATUS UNDER 37 C.F.R § 1.47(a)" filed in Application No. 08/353,525, a copy of the decision according 1.47(a) status in Application No. 08/353,525, and a copy of the declaration submitted in Application No. 08/353,525 signed by 3 of the 4 joint inventors.

In the present petition, petitioners state:

> Richard Williamson refused to sign a declaration, and status under 37 CFR 1.47(a) was accorded to parent patent application 08/353,525 from which the subject application claims priority. Based on 37 CFR 1.63(d)(3)(i) and MPEP 409.03(h), it is believed that status under 37 CFR 1.47(a) extends to the subject application from parent patent application 08/353,525. However, if status under 37 CFR 1.47(a) does not extend to the subject application from parent patent application 08/353,525, please consider this response a petition for filing the subject application by other than all inventors under 37 CFR 1.47(a).

Petition, p. 1.

Pursuant to 37 CFR 1.63(d) (3):

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47,

the copy of the executed oath or declaration for such prior application must be accompanied by:

(i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c); and

The Office notes that the present application is not a continuation or a divisional application of Application No. 08/353,525. In this instance, petitioners failed to state the relationship between the applications (i.e. continuation, divisional, or continuation-in-part) on filing the present application. The Office notes that benefit claims under 35 U.S.C. 120, 121, and 365(c) must identify the prior application by application number, or by international application number and international filing date, and indicate the relationship between the applications. See 37 CFR 1.78(a)(2)(i). A benefit claim that merely states that "this application claims the benefit of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), since the relationship between the applications is not stated. Any benefit claim that does not both identify a prior application by its application number and specify a relationship between the applications will not be considered to contain a specific reference to a prior application as required by 35 U.S.C. 120. See MPEP 201.11. For this reason, petitioners may not seek 1.47 status in this application based on the granting of such status in Application No. 08/353,525 pursuant to 37 CFR 1.63(d)(3).

Accordingly, the request to extend status under 37 CFR 1.47(a) to the subject application from Application No. 08/353,525 is dismissed.

As to the request to treat the petition under 37 CFR 1.47(a), the Office notes that a grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks items (1), (2) and (4) as set forth above.

As item (1), it does not appear that petitioners provided the nonsigning inventor with a complete copy of the application papers (specification, claims, drawings, and declaration) for this application (10/952,399). Pursuant to MPEP 409.03(d)(II),

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the

oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

To demonstrate that the nonsigning inventor refuses to join in the application, petitioners must show on renewed petition that they mailed a complete copy of the present nonprovisional application, including the specification, claims and drawings, to the non-signing inventor at the most current address known to petitioners and that he did not respond to or refused the request to sign the declaration. The circumstances of any refusal to join in the filing of the application must be made by all persons with firsthand knowledge of the event.

As to item (2), this application is not a continuation or divisional application of Application No. 08/353,525. Thus, a newly executed oath or declaration is required pursuant to 37 CFR 1.63.[1]

[1] 37 CFR 1.63(d) provides that a newly executed oath or declaration is not required in a continuation or divisional application filed by all or by fewer than all of the inventors named in a prior nonprovisional application containing a signed oath or declaration as required by 37 CFR 1.63, provided that a copy of the signed oath or declaration filed in the prior application is submitted for the continuation or divisional application and the specification and drawings filed in the continuation or divisional application do not contain any subject matter that would have been new matter in the prior application.

As to item (4), the Office notes that a brief Internet search reveals that the nonsigning inventor may no longer reside at the last known address provided by petitioners in the present petition. Petitioners should make an effort to notify the Office of a more current last known address, *i.e.* an address at which the inventor customarily receives mail. See MPEP 409.03(e), 605.03.

For the reasons stated, the petition under 37 CFR 1.47(a) is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). No additional petition fee is necessary for filing a request for reconsideration.

The Office will charge the $200.00 fee for filing the petition under 37 CFR 1.47(a) to the Deposit Account as authorized.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
SEP 14 2011
OFFICE OF PETITIONS

VAN PELT, YI & JAMES LLP AND APPLE COMPUTER, INC.
10050 N. FOOTHILL BOULEVARD
SUITE 200
CUPERTINO CA 95014

In re Application of
Williamson et al.
Application No. 10/952,399
Filed: 09/28/2004
Attorney Docket No. P2123USC4

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) AS MOOT

This is in response to the renewed petition under 37 CFR 1.47(a) filed September 8, 2011. Applicants obtained an extension of time for response within the first month. Accordingly, the renewed petition is filed timely.

In response to the decision dismissing the original petition under 37 CFR 1.47(a), applicants submitted a declaration signed by all of the named inventors in the application. In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary.

Accordingly, the petition is dismissed as involving a moot issue. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application does not need to be returned to the Office of Petitions for further consideration under 37 CFR 1.47(a).

No petition is required for the filing of the present renewed petition. The duplicate $200.00 petition fee submitted on September 8, 2011, will be refunded to the Deposit Account in due course.

This application is being referred to Technology Center Art Unit 2194.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina 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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
2200 Pennsylvania Avenue, N.W.
WASHINGTON DC 20037

MAILED
NOV 28 2011
OFFICE OF PETITIONS

In re Application of :
Simnacher et al. :
Application No. 10/952,806 :
Filed: September 30, 2004 :
Attorney Docket No. 69643.000300 :
For: DEVICE FOR THE APPLICATION OF ACOUSTIC SHOCK WAVES

ON PETITION

This is a decision on the petition under 37 CFR 1.183 for waiver of 37 CFR 1.76(c)(1), filed October 5, 2011.

The petition is **dismissed**.

The petition is dismissed as unnecessary since the claim of benefit to European Patent Application No. 03022056.0, filed October 1, 2003, was picked up on filing and noted correctly on the application's filing receipt. Thus, there is no error in the file to correct.

The Office acknowledges receipt of the supplemental application data sheet filed with the present petition. It has been placed in the file. No change will be made to Office databases because the application's filing receipt is correct.

Because the petition is unnecessary, the petition fee of $400.00 will be credited to petitioners' deposit account.

After the mailing of this decision, the application will be referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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William J. Davis, Esq.
INTERNATIONAL SPECIALTY PRODUCTION
Legal Department
1361 Alps Road, Building No. 8
Wayne NJ 07470

MAILED
APR 06 2011
OFFICE OF PETITIONS

In re Application of	:	
BERTZ et al.	:	
Application No. 10/952,948	:	DECISION ON PETITION
Filed: September 29, 2004	:	UNDER 37 CFR 1.78(a)(3)
Docket No. FDN-2870/A	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 28, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective

because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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 1.78(a)(3) 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.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: THOMPSON HINE LLP
2000 COURTHOUSE PLAZA NE
10 WEST SECOND STREET
DAYTON, OH 45402

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William J. Davis, Esq.
INTERNATIONAL SPECIALTY PRODUCTION
Legal Department
1361 Alps Road, Building No. 8
Wayne NJ 07470

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MAY 26 2011
OFFICE OF PETITIONS

In re Application of	:	
BERTZ et al.	:	
Application No. 10/952,948	:	DECISION ON PETITION
Filed: September 29, 2004	:	UNDER 37 CFR 1.78(a)(3)
Docket No. FDN-2870/A	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 27, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

The petition was dismissed on April 6, 2011 because the amendment improperly incorporates by reference prior-filed application 10/617,497. Prior-filed nonprovisional application 10/617,497 was both added by amendment and included in an incorporated by reference statement after the filing date of this application.

Petitioner argues that the incorporation by reference statement was not added by the previously-submitted amendment to the specification but was part of the specification as originally filed and therefore the petition satisfies the requirements to accept an unintentionally delayed claim for the benefit of priority to the prior-filed applications

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The renewed petition does not satisfy item (1) above. Prior-filed nonprovisional application 10/617,497 was not included as part of the specification as originally filed. Note that the amendment proposes to change U.S. application Ser. 10/617,407 to U. S. application Ser. 10/617,497. Prior-filed nonprovisional application 10/617,497 is newly added and as such would be added after the filing date of this application.

An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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NOV 03 2010
OFFICE OF PETITIONS

In re Application of	:	
Edwards et al.	:	
Application No. 10/953,126	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. PRD2125NP	:	

This is a decision on the petition, filed June 17, 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**.

A Notice of Abandonment was mailed on June 15, 2010, which stated that the instant application was held abandoned for failure to reply to the Petition Decision mailed December 4, 2009.

Petitioner asserts that no reply was due from the applicants.

A Petition under 37 CFR 1.181 and 37 CFR 1.114 was submitted by the applicants on July 16, 2009. Specifically, the petition asked that the restriction requirement, which was made final in a March 31, 2009 Office action, be withdrawn. Subsequently, a final Office action was issued on September 15, 2009. On December 4, 2009, a petition decision was rendered by the Director of Technology Center 1600.

The petition decision states,

"The final Office action mailed 15 September 2009 is withdrawn in view of the fact that it was mailed prior to the mailing of this petition decision. Accordingly, the finality is hereby withdrawn.

The application will be forwarded to the examiner for preparation of an Office action consistent with this decision, which addresses all claims for rejoined Groups I and VI (claims 1-39 and 113-132) which read upon the elected species, following the guidance in MPEP 803.02 with respect to examination practice for Markush claims. Should the product claims become allowable, the examiner is directed to following MPEP 821.04(b) concerning potential rejoinder of claims for using the allowable product."

In view of the above, no reply was due from the applicant. The application was to return to the examiner to issue a new Office action incorporating the items discussed in the decision.

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 AU 1624 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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APR 12 2011

OFFICE OF PETITIONS

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Patent No. 7,155,818	:	
Issue Date: January 2, 2007	:	
Application No. 10/953,158	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. ITC-295US1	:	

This is a decision on the Petition Under 37 CFR §1.182 For Suspension Of The Rules and Request For Certificate Of Correction Of Patent For Applicant's Mistake (37 C.F.R. §1.323), filed April 3, 2008, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of assignee's name and residence. 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 add the omission of assignee's name and residence 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 assignee's name and residence 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 Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) that was 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. 7,155,818.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
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

AUG 08 2011

OFFICE OF PETITIONS

In re Patent of Hurtta	:	DECISION ON
Patent No. 7,916,700	:	REQUEST FOR RECONSIDERATION
Issued: March 29, 2011	:	OF
Application No. 10/953,367	:	PATENT TERM ADJUSTMENT
Filed: September 30, 2004	:	and
Docket No.39700-644001US/	:	NOTICE OF INTENT TO ISSUE
NC40382US	:	CERTIFICATE OF CORRECTION

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON FACE OF PATENT UNDER 37 C.F.R. §1.705(d)," filed May 26, 2011. Patentee requests that the patent term adjustment indicated on the patent be corrected from seven hundred fourteen (714) days to eight hundred ninety-eight (898) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

Patentee disputes the period of reduction of 64 days associated with the filing of the Information Disclosure Statement (IDS) on June 24, 2010 and the period of reduction of 120 days entered for the August 27, 2010 filing of a letter that Patentee submitted pursuant to his duty of good faith and candor regarding a perceived error in patent term adjustment.

Patentee is correct on both issues. After a notice of allowance was mailed on May 28, 2010, applicant filed an IDS on June 24, 2010. While the language found in the SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (IDS) transmittal, filed June 24, 2010, does not exactly track the language of 37 CFR 1.704(d), it substantially tracks the required language. In addition, patentee clarifies the statements found in the transmittal in the present petition and states that each item of information contained in the June 24, 2010 IDS was first cited in a

communication from a foreign patent office in a counterpart application and that the communication was not received by an individual designated in Section 1.56(c) more than thirty days prior to the filing of the IDS.

In light of the above, the 64 day reduction associated with the filing of the IDS on June 24, 2010 is being removed.

A review of the record confirms that a period of reduction of 120 days was entered for the filing of a candor letter on August 27, 2010. The only other papers filed on August 27, 2010 were the issue fee transmittal and Fee Address Indication Form, for which a period of reduction was not warranted.

§ 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Likewise, filing of a letter pursuant to comment 43 is covered by 37 CFR 1.704(e). Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 120 days will be properly restored to patentees patent term adjustment.

In view thereof, the patent should have issued with a revised patent term adjustment of eight hundred ninety-eight (898) days (693 days of A delay + 267 days of B delay - 62 days of Applicant delay).

The Office acknowledges receipt of the $200.00 fee under 37 CFR 1.18(e). No additional fees are required.

The Certificate of Correction Branch has been advised of this decision. The application is, thereby, forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by EIGHT HUNDRED NINETY-EIGHT (898) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,916,700 B2

DATED : **March 29, 2011** **DRAFT**

INVENTOR(S) : Hurtta

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 714 days

Delete the phrase "by 714 days" and insert – by 898 days--

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OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

In re Application of :
Carus et al. :
Application No. 10/953,448 : ON PETITION
Filed: September 30, 2001 :
Attorney Docket No. N0484.70856US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 9, 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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is June 10, 2007. A Notice of Abandonment was mailed October 2, 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 continuing application, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on June 2, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account.

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 Power of Attorney filed June 2, 2010, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application number 11/851,871.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/953,448	09/30/2004	Alwin B. Carus	N0484.70826US01

CONFIRMATION NO. 3235

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

POA ACCEPTANCE LETTER

OC000000042698308

Date Mailed: 07/22/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/02/2010.

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.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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THORNE & HALAJIAN, LLP
111 WEST MAIN STREET
BAY SHORE, NY 11706

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SEP 27 2010
OFFICE OF PETITIONS

In re Application of
Keith Waters, et al.
Application No. 10/953,671
Filed: September 29, 2004
Attorney Docket No. FT05167

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 22, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY & TECH. LAW DEPT
35 WATERVIEW DRIVE
MSC 26-22
SHELTON, CT 06484

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OFFICE OF PETITIONS

In re Application of
G. Thomas Athens, et al.
Application No. 10/953,828
Filed: September 29, 2004
Attorney Docket No. F-868

DECISION ON PETITION

This is a decision on the petition, filed July 21, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before June 20, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 19, 2009.

Petitioner asserts that the Notice dated July 21, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice 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 Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered and docketed 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 satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

Since petitioner has already satisfied the requirements listed in the Notice of Allowance by providing payment for the Issue fee and the filing of a proper terminal disclaimer, this application is being forwarded to the Office of Data Management for further processing in accordance with this decision on petition

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Application of :
Baerlocher et al. : DECISION ON APPLICATION
Application No. 10/953,829 : FOR PATENT TERM ADJUSTMENT
Filed: September 29, 2004 :
Docket No. 3718611-02276 :

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b), October 28, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 1139 days to 1073 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **one thousand seventy-three (1073)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 16, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 1139 days. On October 28, 2010, applicants timely submitted the instant application for patent term adjustment.[1]

In the present petition applicants disclose that after applicants filed a reply on November 2, 2009 to a final Office action, that applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on January 7, 2010. The record does not support a conclusion that

[1] Office finance records indicate that the issue fee payment was received on October 28, 2010.

the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed January 7, 2010, reveals that applicants did not include a statement under 37 CFR 1.704(d).[2]

Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The patent term adjustment should have been reduced by 66 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, November 3, 2009, and ending on the date that the IDS was filed, January 7, 2010. Accordingly, a period of reduction of 66 days will be entered.

In view thereof, the determination of patent term adjustment at the time of mailing of the Notice of Allowance is **1073 days** (1139 days of Office delay - 66 days of applicant delay).

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).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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[2] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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10/953,829 GAMING DEVICE HAVING GAME WITH PLAYER SELECTIONS AND AWARD POOLS

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Patent Term Adjustment

Filing or 371(c) Date:	09-29-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	1139
A Delays:	1139	PTO Manual Adjustments:	-66
B Delays:	0	Applicant Delays:	0
C Delays:	0	Total PTA Adjustments:	1073

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
70	01-10-2011	Adjustment of PTA Calculation by PTO		66	0
59	08-16-2010	Mail Notice of Allowance	7		51
58	08-12-2010	Notice of Allowance Data Verification Completed			0
57	08-12-2010	Issue Revision Completed			0
56	08-12-2010	Document Verification			0
55	08-10-2010	Examiner's Amendment Communication			0
54	08-02-2010	Examiner Interview Summary Record (PTOL - 413)			0
53	08-10-2010	Notice of Allowability			0
52	04-22-2010	Date Forwarded to Examiner			0
51	04-09-2010	Response after Non-Final Action			0
50	03-25-2010	Email Notification			0
49	03-25-2010	Mail Examiner Interview Summary (PTOL - 413)			0
48	03-16-2010	Examiner Interview Summary Record (PTOL - 413)			0
47	01-07-2010	Electronic Information Disclosure Statement			0
46	01-21-2010	Electronic Review			0
45	01-21-2010	Email Notification			0
44	01-21-2010	Mail Non-Final Rejection			0
43	01-15-2010	Non-Final Rejection			0
42	01-07-2010	Information Disclosure Statement considered			0
41	01-07-2010	Information Disclosure Statement (IDS) Filed			0

40	11-05-2009	Date Forwarded to Examiner		0
39	11-02-2009	Amendment Submitted/Entered with Filing of CPA/RCE		0
38	11-05-2009	Date Forwarded to Examiner		0
37	11-02-2009	Request for Continued Examination (RCE)		0
36	11-05-2009	Disposal for a RCE / CPA / R129		0
35	11-02-2009	Workflow - Request for RCE - Begin		0
34	08-04-2009	Electronic Review		0
33	08-04-2009	Email Notification		0
32	08-04-2009	Mail Final Rejection (PTOL - 326)	47	28
31	07-31-2009	Final Rejection		0
30	02-18-2009	New or Additional Drawing Filed		0
29	03-17-2009	Date Forwarded to Examiner		0
28	02-18-2009	Response after Non-Final Action		0
27	11-18-2008	Electronic Review		0
26	11-18-2008	Email Notification		0
25	11-18-2008	Mail Non-Final Rejection	1085	-1
24	11-13-2008	Non-Final Rejection		0
23	05-23-2005	Information Disclosure Statement considered		0
19	06-10-2008	Case Docketed to Examiner in GAU		0
18	10-17-2007	Withdraw Flagged for 5/25		0
17	10-15-2007	Flagged for 5/25		0
16	07-25-2006	Correspondence Address Change		0
15	05-23-2005	Reference capture on IDS		0
14.7	05-23-2005	Information Disclosure Statement (IDS) Filed		0
14	05-23-2005	Information Disclosure Statement (IDS) Filed		0
13	03-02-2005	IFW TSS Processing by Tech Center Complete		0
12	03-02-2005	Case Docketed to Examiner in GAU		0
11	12-02-2004	Application Return from OIPE		0
10	12-02-2004	Application Return TO OIPE		0
9	12-02-2004	Application Dispatched from OIPE		0
8	12-02-2004	Application Is Now Complete		0

7	11-22-2004	Additional Application Filing Fees	0
6	11-22-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	11-12-2004	Notice Mailed--Application Incomplete--Filing Date Assigned	0
4	11-01-2004	Cleared by OIPE CSR	0
3	11-01-2004	CASE CLASSIFIED BY OIPE	0
2	10-18-2004	IFW Scan & PACR Auto Security Review	0
1	09-29-2004	Initial Exam Team nn	0

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DEC 19 2011
OFFICE OF PETITIONS

JOSEPH J. GRASE, ESQ.
PAXAR AMERICAS, INC.
170 MONARCH LANE
MIAMISBURG OH 45342

In re Application of	:	
Jeanne F. Duckett	:	
Application No. 10/953,916	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. M-651	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b), is hereby **DISMISSED AS MOOT**.

On July 29, 2011, a non-final Office action was mailed to applicant. The Office action set a shortened statutory period for reply of three (3) months. This three-month time period for a patent application may be extended under 37 CFR 1.136(a). Accordingly, the period for reply could potentially be extended to January 30, 2012 with a three-month extension of time.

Currently, a one-month extension of time is required in order for the response of October 31, 2011 to be considered timely filed. Therefore, since petitioner has submitted $1,270.00 toward the required large entity $150.00 one-month extension of time fee, the remaining $1,120.00 overage will be refunded to petitioner's credit card in due course. Additionally, petitioner has submitted an unnecessary $1,860.00 petition fee which will also be refunded to petitioner's credit card in due course.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2854 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

cc: Amber C. Ruic
Avery Dennison Corporation
8080 Norton Pky., 22-D
Mentor, Ohio 44060

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AMELIA B. YARBROUGH, PH D.
8613 SAPIENZA DRIVE
FORT WASHINGTON, MD 20744

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Reynaldo DIAS DE MORAES E. SILVA, et *al.*	:	
Application No. 10/953,959	:	DECISIONON PETITION
Filed: September 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the 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 March 26, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 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 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 1621 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

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CHRISTOPHER Q. REID
4016 PLEASANT VALLEY ROAD
VIRGINIA BEACH VA 23464

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Christopher Q. REID	:	
Application No. 10/954,061	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. 036606	:	

This is a decision on the renewed petition, filed August 20, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 06, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 07, 2009.

Petitioner states that a timely reply was filed on October 06, 2009. However, the final rejection mailed April 06, 2009 had a set shortened statutory period set to expire three (3) months for the date of mailing. Under 37 CFR 1.136(a) the shortened statutory period could only be extended for three (3) months. The application became abandoned on July 07, 2009 for failure to prosecute. On November 24, 2009 applicant paid a five (5) month extension of time which was after the maximum extendable time period.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

/Thurman K. Page /
Petitions Examiner
Office of Petitions

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CHRISTOPHER Q. REID
4016 PLEASANT VALLEY ROAD
VIRGINIA BEACH VA 23464

MAILED
JUN 30 2011
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In re Application of	:	
Christopher Q. REID	:	
Application No. 10/954,061	:	DECISION ON PETITION
Filed: December 15, 2008	:	
Attorney Docket No. 036606	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 08, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 06, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 07, 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).

The amendment filed November 24, 2009 does not place the application in condition for allowance.

Further correspondence with respect to this matter should be addressed as follows:

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By hand: U. S. Patent and Trademark Office
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401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

See Attached: Advisory Action

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CHRISTOPHER Q. REID
4016 PLEASANT VALLEY ROAD
VIRGINIA BEACH VA 23464

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Christopher Q. REID	:	
Application No. 10/954,061	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. 036606	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 06, 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). The petition was not accompanied by the required reply.

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 stated in the petition decision of June 30, 2011, the amendment filed November 24, 2009 does not place the application in condition for allowance. The renewed petitioner filed August 30, 2011 was not accompanied by the required reply.

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

DEC 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Berna Erol et al.	:	
Application No. 10/954,069	:	DECISION ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 015358-009800US	:	

This is a decision on the petition under 37 CFR 1.59(b), filed October 8, 2010, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the Request for Continued Examination (RCE) filed on October 8, 2010, be expunged from the record.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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ATTN: Travis Dodd
LAW OFFICES OF TRAVIS L. DODD, PC
2490 Heyneman Hollow
Fallbrook CA 92028

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Jen-Jr Gau	:	
Application No. 10/954,078	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. GFI701	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, August 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 November 26, 2010. A Notice of Abandonment was mailed on March 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, with the required fee of $270 (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal is accepted as being unintentionally delayed.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Board of Patent Appeals and Interferences for appropriate action in the normal course of business for processing of the Reply received April 11, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MNEMOGLYPHICS LLC
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Kiran R. Desai :
Application No. 10/954,375 : ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. P18927 :

This is in response to petition to revive under 37 CFR 1.137(b), filed January 11, 2012.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed September 10, 2007. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on February 11, 2008, made timely by obtaining a two month extension of time and by the fact that February 10, 2008 fell on a Sunday. See 37 CFR 1.7(a). However, by Advisory Action mailed March 17, 2008, the Examiner indicated that the Amendment would not be entered because it failed to place the application in condition for allowance. No further proper reply having been received, the application became abandoned on February 11, 2008. The Office mailed a Notice of Abandonment on April 11, 2008.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Group Art Unit 2189 for consideration of the RCE, filed January 11, 2012.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
DEC 01 2010
OFFICE OF PETITIONS

In re Application of	:	
Ludwin et al.	:	
Application No. 10/954,408	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. 030409	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 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 October 8, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July 8, 2010. Accordingly, the date of abandonment of this application is October 9, 2010. A Notice of Abandonment was mailed October 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue 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.

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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,868,890	: DECISION ON REQUEST FOR
Ludwin et al.	: RECONSIDERATION OF
Issue Date: January 11, 2011	: PATENT TERM ADJUSTMENT
Application No. 10/954,408	: and
Filed: September 29, 2004	: NOTICE OF INTENT TO ISSUE
Atty. Dkt. No. 030409	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d) filed March 11, 2011. Patentees request the Office to revise the patent term adjustment in the above-identified patent from three hundred ninety-eight (398) days to four hundred fifteen (415) days.

The request for correction of the patent term adjustment (PTA) indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred fifteen **(415)** days.

On January 11, 2011, the application matured into U.S. Patent No. 7,868,890, with a revised patent term adjustment of 398 days. Patentees argue that the Office erred in counting both a period of reduction of 18 days associated with the Issue Fee payment received on petition filed October 26, 2010, and a period of 54 days of applicant delay for abandonment of the application for failure to timely pay the Issue Fee.

Patentees are correct. 37 C.F.R. § 1.704(c) states:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Therefore, Applicants should have been assessed delay for the period from October 9, 2010 (the date the application became abandoned) to December 1, 2010 (the date the decision reviving the application was mailed), or 54 days. (The period of reduction associated with the abandonment is being corrected from 53 days to 54 days). The period of reduction of 18 days associated with the Issue Fee payment on petition to revive is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of FOUR HUNDRED FIFTEEN (415) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED FIFTEEN (415) days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,868,890 B2

DATED : **January 11, 2011** **DRAFT**

INVENTOR(S) : Ludwin 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 398 days

Delete the phrase "by 398 days" and insert – by 415 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

October 20, 2010

Rachel S. Watt
Hodgson Russ LLP
140 Pearl Street
Suite 100
Buffalo, NY 14202-4040

Patent No.	: 7,788,130 B2
Ser. No.	: 10/954,543
Inventor(s)	: Michael A. Feeley, et al.
Issued	: August 31, 2010
Docket No.	: 034812.00009
Title	: **METHOD AND PRODUCT FOR OFFERING ADVERTISING SERVICES**

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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HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO NY 14202-4040

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,788,130	:	
Application No. 10/954,543	:	
Filed: September 30, 2004	:	ON PETITION
Issued: August 31, 2010	:	
Attorney Docket No. 034812.00009	:	

This is a decision on the petition filed November 15, 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**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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	10954665
Filing Date	29-Sep-2004
First Named Inventor	Richard Ewers
Art Unit	3734
Examiner Name	DIANE YABUT
Attorney Docket Number	USGINZ00920
Title	Methods and apparatus for grasping and cinching tissue anchors

◉ 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
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Richard Ewers

Application No : 10954665

Filed : 29-Sep-2004

Attorney Docket No : USGINZ00920

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,051,096
Elbaz et al.
Issue Date: November 1, 2011
Application No. 10/954,714
Filed: September 30, 2004
Attorney Docket No. 16113-334001/GP-160-03-US
Title: METHODS AND SYSTEMS FOR AUGMENTING A TOKEN LEXICON

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

MAILED
JAN 27 2012
OFFICE OF PETITIONS

This is a decision on the petition filed on December 30, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand forty (1,040) 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. 8,051,096 on November 1, 2011. The patent issued with a patent term adjustment of 976 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees contest the period of adjustment of 856 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 982 days. Patentees also dispute the 30 day reduction for the submission of the response on December 10, 2007. Patentees also state an additional reduction of 64 days should be taken pursuant to 37 CFR §1.704(c)(7) for the submission of a response April 8, 2010.

As to patentees' arguments regarding the 30 and 64 day reductions, patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under

37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Patentees are reminded that patent term can be disclaimed with a statutory disclaimer at any time after issuance of the patent.

Patentees' arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 856 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including – (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of

the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's

adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually

granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this 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.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 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.

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[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.

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 issuance 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).

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[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.

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 view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA, VA 22182-2683

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Application of Rodney Smith et al. :
Application No. 10/954,837 :
Filing Date: September 30, 2004 :
Attorney Docket No. 62000.0003 :

Decision on Request and Petitions

This is a decision on the request filed July 23, 2010, under 37 CFR 1.48(a) to correct the inventorship in the above-identified application and the petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration by the actual inventors. This also a decision on the petition under 37 CFR 1.182 requesting expedited consideration of the prior petitions filed October 29, 2010.

The petition under 37 CFR 1.183 is **granted**.

The request under 37 CFR 1.48(a) is **granted**.

The petition under 37 CFR 1.182 is **granted**.

An executed declaration in compliance with 37 CFR 1.63 was filed September 30, 2004. The executed declaration listed two inventors - Rodney Smith and Vladimir Smelyansky.

The request under 37 CFR 1.48 and the petition under 37 CFR 1.183 were filed to correct the inventorship by adding inventor Roman Marvchevsky.

Petitioner has met the requirements of 37 CFR 1.48 except for 37 CFR 1.48(a)(3) which requires "An oath or declaration by the actual inventor or inventors as required by §1.63." Specifically, the declaration filed July 23, 2010, is not signed by inventor Rodney Smith.

The petition under 37 CFR 1.183 establishes justice would be served by waiving the requirement for Rodney Smith's signature on the supplemental declaration filed July 23, 2010. Therefore, the aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The inventorship of the application will be changed by the addition of Roman Marvchevsky.

Please find enclosed a corrected filing receipt which reflects the corrected inventorship.

The Office of Data Management, Patent Publications Branch, will be informed of the instant decision and the application will be issued as a patent 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

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
10/954,837	09/30/2004	2614	385	62000.0003	17	2

CONFIRMATION NO. 6272

CORRECTED FILING RECEIPT

57362
AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA, VA 22182-2683

OC000000044408686

Date Mailed: 11/08/2010

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)

Rodney A. Smith, Washington, DC;
Vladimir Smelyansky, Glenview, IL;
Roman Marchevsky, Libertyville, IL;

Power of Attorney: The patent practitioners associated with Customer Number 57362

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/510,925 10/14/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/954,837**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

SYSTEM AND PROCESS FOR MASS TELEPHONY CONFERENCE CALL

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA, VA 22182-2683

NOV 1 0 2010

MAILED
NOV 0 9 2010
OFFICE OF PETITIONS

In re Application of Rodney Smith et al. :
Application No. 10/954,837 :
Filing Date: September 30, 2004 :
Attorney Docket No. 62000.0003 :

Decision on Request and Petitions

This is a decision on the request filed July 23, 2010, under 37 CFR 1.48(a) to correct the inventorship in the above-identified application and the petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration by the actual inventors. This also a decision on the petition under 37 CFR 1.182 requesting expedited consideration of the prior petitions filed October 29, 2010.

The petition under 37 CFR 1.183 is **granted**.

The request under 37 CFR 1.48(a) is **granted**.

The petition under 37 CFR 1.182 is **granted**.

An executed declaration in compliance with 37 CFR 1.63 was filed September 30, 2004. The executed declaration listed two inventors - Rodney Smith and Vladimir Smelyansky.

The request under 37 CFR 1.48 and the petition under 37 CFR 1.183 were filed to correct the inventorship by adding inventor Roman Marvchevsky.

Petitioner has met the requirements of 37 CFR 1.48 except for 37 CFR 1.48(a)(3) which requires "An oath or declaration by the actual inventor or inventors as required by §1.63." Specifically, the declaration filed July 23, 2010, is not signed by inventor Rodney Smith.

The petition under 37 CFR 1.183 establishes justice would be served by waiving the requirement for Rodney Smith's signature on the supplemental declaration filed July 23, 2010. Therefore, the aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The inventorship of the application will be changed by the addition of Roman Marvchevsky.

Please find enclosed a corrected filing receipt which reflects the corrected inventorship.

The Office of Data Management, Patent Publications Branch, will be informed of the instant decision and the application will be issued as a patent 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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

MAILED

SEP 01 2011

OFFICE OF PETITIONS

In re Application of	:	
James P. Beckham	:	
Application No. 10/954,886	:	DECISION ON PETITION
Filed: September 30, 2004	:	
Attorney Docket No.: 289-PDD-04-34 CON3	:	

This is a decision on the petition under 37 CFR 1.182, filed, August 1, 2011, to correct the name of inventor "Jim Beckham" to – James P. Beckham --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correction of the above-named inventor, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
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
10/954,886	09/30/2004	3763	1214	289-PDD-04-34 CON3	36	2

CONFIRMATION NO. 2891

CORRECTED FILING RECEIPT

79990
C. R. Bard, Inc.
Bard Peripheral Vascular, Inc.
1415 W. 3rd Street
P.O. Box 1740
Tempe, AZ 85280-1740

OC000000049324984

Date Mailed: 08/16/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

James P. Beckham, Athens, TX;

Power of Attorney: The patent practitioners associated with Customer Number 79990

Domestic Priority data as claimed by applicant

This application is a CON of 10/726,960 12/03/2003 ABN
and is a CON of 10/726,464 12/03/2003 ABN

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: 11/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/954,886**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Non-compliant medical balloon having a longitudinal fiber layer

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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NOT GRANTED

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SEP 16 2011
OFFICE OF PETITIONS

C. R. BARD, INC.
BARD PERIPHERAL VASCULAR, INC.
1415 W. 3RD STREET
P.O. BOX 1740
TEMPE, AZ 85280-1740

In re Application of	:	
James P. Beckham	:	
Application No.: 10/954,886	:	DECISION ON PETITION
Filed: September 30, 2004	:	
Attorney Docket No.: 289-PDD-04-34 CON3	:	

This is a corrected[1] decision on the petition under 37 CFR 1.182, filed, August 1, 2011, to correct the name of inventor "Jim Beckham" to – James P. Beckham --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correction of the above-named inventor, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

[1] U.S. Patent and Trademark Office records show that a decision was mailed in the above-identified application on September 1, 2011, to an incorrect correspondence address. Accordingly, the decision was modified to reflect the correct correspondence address.

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
10/954,886	09/30/2004	3763	1214	289-PDD-04-34 CON3	36	2

CONFIRMATION NO. 2891

REPLACEMENT FILING RECEIPT

OC000000049828421

79990
C. R. Bard, Inc.
Bard Peripheral Vascular, Inc.
1415 W. 3rd Street
P.O. Box 1740
Tempe, AZ 85280-1740

Date Mailed: 09/15/2011

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Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Non-compliant medical balloon having a longitudinal fiber layer

Preliminary Class

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/09/11

TO SPE OF : ART UNIT: 1656 Attn: RAO MANJUNATH N (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/954895 Patent No.: 7906124

C of C Mailroom date: 04/25/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

Manjunath — SPE

1656 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/18/11

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10954900 Patent No.: 7691378

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
[redacted]

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

~~JEFFREY STUCKER~~ JS
SUPERVISORY PATENT EXAMINER 1647

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: Ganguly 2-15-55-58 (S)-US-NP	Patent Number: 7,669,241
Filing Date (or 371(b) or (f) Date): September 30, 2004	Issue Date: February 23, 2010
First Named Inventor: Sumit Ganguly	
Title: Streaming algorithms for robust, real-time detection of DDoS attacks	

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 10, 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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CARLSON, GASKEY & OLDS, P.C./Alcatel-Lucent
400 W MAPLE RD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 08/17/2010

Applicant	: Sumit Ganguly	: DECISION ON REQUEST FOR
Patent Number	: 7669241	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/954,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **881** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Nov-11

Paper No.

MOTOROLA SOLUTIONS, INC.
IP Law Docketing
1303 EAST ALGONQUIN ROAD
IL01/11th Floor
SCHAUMBURG IL 60196

MAILED

NOV 10 2011

OFFICE OF PETITIONS

Patent Number: 7,574,732	:	
Issue Date: 08/11/2009	:	
Application Number: 10/954,957	:	ON PETITION
Filing Date: 09/29/2004	:	
Attorney Docket Number:	:	
SBL01676	:	

This is a decision on the PETITION UNDER 37 CFR § 3.81(b), filed on November 1, 2011, which is treated as a request to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **dismissed**.

37 CFR 3.81(b) states that 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:

1. state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and

2. 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.

Petitioners have not submitted payment of the $100.00 certificate of correction fee required by 37 CFR 1.20(a). Patent and

trademark fees and charges payable to the 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.[1] In this regard, the petition authorizes the charging of "the fee of $130.00 and any other fee(s) under 37 CFR 1.17(i) which may be required," and the N417 Electronic Acknowledgement Receipt authorizes the charging of fees under 37 CFR 1.21. No authorization has been provided for the charging of fees under 37 CFR 1.20, however.

Petitioner should submit the required Certificate of Correction fee of $100.00 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 filing system of the USPTO.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] See 37 CFR 1.22(a); MPEP 509

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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MOTOROLA SOLUTIONS, INC.
IP Law Docketing
1301 EAST ALGONQUIN ROAD
IL02 5th Floor - SH5
SCHAUMBURG IL 60196

MAILED
JAN 19 2012
OFFICE OF PETITIONS

In re Patent No. 7,574,732	:	
Issue Date: 08/11/2009	:	
Application Number: 10/954,957	:	ON PETITION
Filing or 371(c) Date: 09/29/2004	:	
Attorney Docket Number: SBL01676	:	

This is a decision on the renewed request under 37 CFR 3.81(b),[1] filed on January 9, 2012, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Receipt of the processing fee of $130.00 required by § 1.17(h), and the certificate of correction fee of $100.00 required by § 1.20(a) are acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

The 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MAILED

SEP 20 2010

OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

In re Patent No. 7,712,673	:	DECISION ON REQUEST
Jones	:	FOR
Issue Date: May 11, 2010	:	RECONSIDERATION OF
Application No. 10/954,966	:	PATENT TERM ADJUSTMENT
Filed: September 29, 2004	:	and
Atty Docket No. P1029D	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition pursuant to 37 C.F.R. § 1.705(d), filed on July 9, 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 and eighty-five (1185) 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 and fifty-one (751) 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 May 11, 2010, with a patent term adjustment of 538 days.

The Office has determined that the patent term adjustment for the above-identified patent is **751 days.**

[1] Petition, page 2.

The Office agrees with Petitioner that the period of B-delay totals 705 days. However, a notice of appeal was filed on April 30, 2008, and an Ex Parte Quayle action was mailed on July 7, 2009. The 434 days of the over three year period consumed by appellate review, beginning on April 30, 2008 and ending on July 7, 2009, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 751 (510 days of examination delay plus 705 "B-delay" minus the aforementioned excluded 434 days minus 30 days of Applicant delay minus zero overlap) days, not 1185 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or Patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 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 **seven hundred and fifty-one (751) days**.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent

Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

cc: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,712,673 B2

DATED : **May 11, 2010** **DRAFT**

INVENTOR(S) : Jones

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 538 days

Delete the phrase "by 538 days" and insert – by 751 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/29/10 **Paper No.:** —

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/954988 Patent No.: 7711931B2

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Kevin L Ellis/ 10/20/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/29/10 **Paper No.:** —

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/957988 Patent No.: 7711931B2

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Kevin L Ellis/ 10/20/10

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. : 7,169,752 B2
Ser. No. : 10/955,006
Inventor(s) : Mickle et al.
Issued : Jan. 30, 2007
Title : COMPOUNDS AND COMPOSITIONS FOR PREVENTION OF OVERDOSE OF OXYCODONE
Docket No. : 085199-0346
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

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CHRISTOPHER C WINSLADE
MCANDREWS HELD & MALLOY LTD
500 WEST MADISON ST
34TH FLOOR
CHICAGO IL 60661

MAILED
DEC 30 2011
OFFICE OF PETITIONS

In re Application	:	
Keith L. Klinger	:	
Application No. 10/955,061	:	DECISION ON APPLICATION
Filed: September 30, 2004	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 15862US02	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)", filed October 17, 2011. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from nine hundred sixty-seven (967) days to one thousand two hundred twelve (1212) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand two hundred twelve (1212) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 21, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is 967 days. On October 17, 2011, Applicant

timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 1212 days.

The Office initially determined a patent term adjustment of 967 days based on an adjustment for PTO delay of 814 days pursuant to 37 C.F.R. § 1.703(a)(1), and 91 and 62 days of PTO delay, both pursuant to 37 C.F.R. 1.703(a)(2), reduced by 0 days of Applicant delay.

Applicant asserts that the PTO should be accorded 213 days of "C" delay for the number of days from the Notice of Appeal filed on December 2, 2008, to and including the mailing of an Office action on July 2, 2009, and 185 days of "C" delay for the number of days from the Notice of Appeal filed on April 5, 2010, to and including the mailing of an Office action on October 6, 2010.

Applicant's argument has been considered, and found to be 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 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).

With respect to the matter of "B" delay, Applicant is reminded that the period consumed by appellate review, whether successful or not, is excluded from the calculation of "B" delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with filing of a notice of appeal. See 35 U.S.C. 134(a). Accordingly, when the application issues into a patent, the 398 days of "C" delay will be excluded from the "B" delay calculation.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one thousand two hundred twelve (1212) days** (967 days of "A" delay and 398 days of "B" delay, reduced by 153 days of overlap between "A" and "C" delay).

---

[1] Applicant filed the application for patent term adjustment on the same date as the issue fee.

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10955061

Application Filing Date	09/30/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	967
A Delays	967	PTO Manual Adjustment	245
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	1212

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
78	12/22/2011		P028	Adjustment of PTA Calculation by PTO	245		0
70	07/21/2011		MN/=.	Mail Notice of Allowance			0
65	07/19/2011		IREV	Issue Revision Completed			0
64	07/19/2011		DVER	Document Verification			0
63	07/19/2011		N/=.	Notice of Allowance Data Verification Completed			0
62	07/19/2011		DOCK	Case Docketed to Examiner in GAU			0
69	07/18/2011		OAR	Office Action Review			0
68	07/18/2011		OAR	Office Action Review			0
67	07/18/2011		OAR	Office Action Review			0
66	07/18/2011		OAR	Office Action Review			0
61	07/18/2011		EX.R	Reasons for Allowance			0
60	07/18/2011		EX.A	Examiner's Amendment Communication			0
59	07/18/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
58	07/18/2011		CNTA	Allowability Notice			0
55	06/27/2011		FWDX	Date Forwarded to Examiner			0
54	06/20/2011		A.NE	Amendment after Final Rejection			0
53	03/21/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
52	03/14/2011		CTFR	Final Rejection			0
51	01/10/2011		FWDX	Date Forwarded to Examiner			0
50	01/06/2011		A...	Response after Non-Final Action			0
49	10/06/2010	08/05/2010	MCTNF	Mail Non-Final Rejection	62		43
48	09/30/2010		CTNF	Non-Final Rejection			0
47	06/10/2010		FWDX	Date Forwarded to Examiner			0
46	06/10/2010		MAPCR	Mail Appeals conf. Reopen Prosec.			0
45	06/07/2010		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
44	04/05/2010		AP.C	Request for Pre-Appeal Conference Filed			0
43	04/05/2010		N/AP	Notice of Appeal Filed			0
42	01/05/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
41	01/04/2010		CTFR	Final Rejection			0
40	11/02/2009		FWDX	Date Forwarded to Examiner			0
39	10/02/2009		A...	Response after Non-Final Action			0
38	07/02/2009	04/02/2009	MCTNF	Mail Non-Final Rejection	91		32
37	07/01/2009		CTNF	Non-Final Rejection			0
36	04/15/2009		FWDX	Date Forwarded to Examiner			0
35	04/15/2009		MAPCR	Mail Appeals conf. Reopen Prosec.			0
34	04/13/2009		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
33	12/02/2008		AP.C	Request for Pre-Appeal Conference Filed			0
32	12/02/2008		N/AP	Notice of Appeal Filed			0
31	09/04/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
30	09/02/2008		CTFR	Final Rejection			0
29	06/18/2008		FWDX	Date Forwarded to Examiner			0
28	05/21/2008		A...	Response after Non-Final Action			0
27	02/22/2008	11/30/2005	MCTNF	Mail Non-Final Rejection	814		0.5
26	02/19/2008		CTNF	Non-Final Rejection			0
22	10/17/2007		W525	Withdraw Flagged for 5/25			0
21	10/16/2007		F525	Flagged for 5/25			0
20	08/27/2007		DOCK	Case Docketed to Examiner in GAU			0
19	06/25/2007		DOCK	Case Docketed to Examiner in GAU			0
18	03/22/2006		DOCK	Case Docketed to Examiner in GAU			0
17	09/24/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	09/24/2005		DOCK	Case Docketed to Examiner in GAU			0
15	02/02/2005		C.AD	Correspondence Address Change			0
12	11/29/2004		TI1050	Transfer Inquiry to GAU			0
14	11/18/2004		C604	Substitute Specification Filed			0
13	11/18/2004		A.PE	Preliminary Amendment			0
10	11/12/2004		COMP	Application Is Now Complete			0

5	11/12/2004	COMP	Application Is Now Complete	0
11	11/10/2004	WROIPE	Application Return from OIPE	0
9	11/10/2004	ROIPE	Application Return TO OIPE	0
8	11/10/2004	WROIPE	Application Return from OIPE	0
7	11/10/2004	ROIPE	Application Return TO OIPE	0
6	11/10/2004	OIPE	Application Dispatched from OIPE	0
4	11/03/2004	L194	Cleared by OIPE CSR	0
3	11/03/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	10/26/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	09/30/2004	IEXX	Initial Exam Team nn	0
0.5	09/30/2004	EFILE	Filing date	0

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OCT 25 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,996,208 : DECISION ON APPLICATION FOR
Issued: August 9, 2011 : PATENT TERM ADJUSTMENT
Application No. 10/955,660 :
Filing or 371(c) Date: September 30, 2004 :
Dkt. No.: 16113-333001/GP-160-02-US :

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on October 10, 2011 requesting an increase in patent term adjustment from 1276 days to 1406 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,996,208 on August 9, 2011. The patent issued with a patent term adjustment of 1276 days. The instant application for patent term adjustment was timely filed October 10, 2011.

Patentee disputes the reduction of two days for applicant delay with respect to the reply filed March 3, 2009.

With respect to the applicant delay of two days, patentees' arguments have been carefully considered, but are hereby DISMISSED AS UNTIMELY.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the two day reduction contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed as untimely.

Patentee also disputes the 781 days accorded pursuant to 37 CFR 1.703(b) and assert that the correct period of adjustment in this regard is 909 days. Patentees' arguments have been considered, but not found persuasive.

35 USC 154(b)(1)(B) states in relevant part:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not

> including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) is 781 days, the period from November 20, 2009, the date that the RCE was filed, to August 9, 2011, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7,996,208
Issued: August 9, 2011
Application No. 10/955,660
Filing or 371(c) Date: September 30, 2004

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration of decision mailed October 25, 2011 with respect to the application for patent term adjustment under 37 CFR 1.704(d) filed October 10, 2011. This request, filed December 14, 2011, is deemed timely filed within the meaning of 37 CFR 1.181(f).

RELEVANT BACKGROUND

Patentees request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Abbott Biotherapeutics Corp v. Kappos, 1:2010cv01853 (D.D.C. 2010).

The request is hereby **DENIED**.

The above-identified application matured into U.S. Patent No. 7,996,208 on August 9, 2011 with a revised patent term adjustment of 1,404 days. On October 25, 2011, a decision on patentees' application for patent term adjustment under 37 CFR 1.705(d), filed October 10, 2011, was mailed. The decision mailed October 25, 2011 dismissed as untimely patentees' request for relief with respect to the reply filed March 3, 2009. The decision further dismissed patentees' request for relief with respect to the patent term adjustment of 781 days under 37 CFR 1.703(b).

Patentees maintain that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, patentees argue that subsequent to the filing of the request for continued examination on November 20, 2009, examination of the application closed on April 4, 2011, the date upon which the Notice of Allowance was mailed. Thus, patentees argue that no continued examination took place during the period from April 4, 2011 (the mailing date of the Notice of Allowance) until August 9, 2011 (the date the patent was issued). As such, patentees herein request that the patent term adjustment for the above-identified patent be increased from 1,276 days to 1,404 days.

RELEVANT STATUTES

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. 11 l(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.

DECISION

Patentees' 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 1,248 days based on the application having been filed under 35 USC 111(a) on March 17, 2004 and the patent not having issued as of March 18, 2007, the day after the date that is three years after the date that the application was filed, and a request for continued examination under 132(b) having been filed on November 17, 2010. In other words, the 131-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay.

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 11 l(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. Patentees do 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

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[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
  (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
  (2) Abandonment of the application; or
  (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

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.

Patentees' 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)[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

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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.

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]fit 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 issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in BlackLight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See, BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a

notice of allowance has previously been issued for the application. See, In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See, 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See, 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See, 37 CFR 1.114(a)(1). As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

CONCLUSION

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the above-identified patent is not entitled to a patent term extension or adjustment of 1,404 days. Therefore, the petition to change the patent term adjustment indicated on the above-identified patent to 1,404 days is DENIED.

This decision may be viewed as final agency action. See, MPEP 1002.02(b).

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[3] Note, 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.

Telephone inquiries specific to this matter should be directed to Attorney Advisor Alesia M. Brown at (571) 272-3205.

Anthony Knight
Director
Office of Petitions

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In re Patent No. 7,996,208 :
Issued: August 9, 2011 : DECISION ON PETITION
Application No. 10/955,660 :
Filing date or 371 date: September 30, 2004 :
Atty. Dkt. No.: 16113-333001/GP-160-02-US :
:

This is a decision on the petition filed February 21, 2012, requesting that the Director review the Final Agency Decision on Request for Reconsideration of Decision on Application for Patent Term Adjustment ("Decision") mailed by the Office of Petitions on December 19, 2011.

The Decision maintains that the above-identified patent is entitled to one thousand two hundred and seventy-six (1,276) days of patent term adjustment ("PTA"). Patentees request that the Director review the decision and modify the PTA calculation to one thousand four hundred and four (1,404) days.

The decision of the Director of the Office of Petitions has been reviewed. However, because no error has been found in the decision, the petition under 37 CFR 1.181 is **DENIED**.

The patent term adjustment remains 1,276 days, as indicated in the final agency decision of December 19, 2011.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

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In re Application of	:
Graydon Ernest Beatty, et al.	:
Application No. 10/955,894	: DECISION ON PETITION
Filed: September 30, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 0G-040027US (065513-0261)	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 17, 2009, 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 September 4, 2009. The delay in responding is regretted; however, the petition was recently referred to the undersigned for consideration.

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 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) and (iii) of the prior-filed application(s), unless previously submitted;[1]

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

(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(s) 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(s). In order for this application to be entitled to the benefit of the prior-filed application(s), 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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3739 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: JOHN W. REES
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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
10/955,894	09/30/2004	3739	385	0G-040027US (065513-0261)	10	2

CONFIRMATION NO. 7020

CORRECTED FILING RECEIPT

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OC000000043247552

Date Mailed: 08/27/2010

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)

Graydon Ernest Beatty, St. Paul, MN;
Jonathan Kagan, Minneapolis, MN;
Jeffrey Robert Budd, St. Paul, MN;

Power of Attorney: The patent practitioners associated with Customer Number 67337

Domestic Priority data as claimed by applicant

This application is a CON of 09/589,387 06/07/2000
which is a DIV of 08/387,832 05/26/1995 PAT 6,240,307
which is a 371 of PCT/US93/09015 09/23/1993
which is a CIP of 07/950,448 09/23/1992 PAT 5,297,549
and is a CIP of 07/949,690 09/23/1992 PAT 5,311,866
This application 10/955,894
is a CON of 10/706,484 11/12/2003 PAT R,E41,334
which is a REI of 08/387,832 05/26/1995 PAT 6,240,307
which is a 371 of PCT/US93/09015 09/23/1993
which is a CIP of 07/949,690 09/23/1992 PAT 5,311,866
and is a CIP of 07/950,448 09/23/1992 PAT 5,297,549
and said 10/706,484 11/12/2003
is a CIP of 08/376,067 01/20/1995 PAT 5,553,611
which is a CON of 08/178,128 01/06/1994 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/955,894**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Chamber location method

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

DEC 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,294,635	:	
Issue Date: November 13, 2007	:	
Application No. 10/956,006	:	NOTICE
Filed: September 29, 2004	:	
Attorney Docket No. **022104-000610US**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

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FEB 27 2012
OFFICE OF PETITIONS

In re Patent No. 7,294,635 :
Issue Date: November 13, 2007 :
Application No. 10/956,006 : NOTICE
Filed: September 29, 2004 :
Attorney Docket No. **022104-000610US** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 remitted November 9, 20111, is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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 : 10956009

Filed : 29-Sep-2004

Attorney Docket No : USGINZ03900

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	10956009
Filing Date	29-Sep-2004
First Named Inventor	Vahid Saadat
Art Unit	3734
Examiner Name	DIANE YABUT
Attorney Docket Number	USGINZ03900
Title	Multi-position tissue manipulation assembly

◉ 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

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JAN 31 2011

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,591,783	: DECISION ON REQUEST
Issued: September 22, 2009	: FOR RECONSIDERATION
Application No. 10/956,011	: OF PATENT TERM ADJUSTMENT
Filed: September 30, 2004	: AND
Attorney Docket No. 11219.0008-04000	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d) filed November 4, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 452 days to 1001 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand (1000) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 30, 2007 and ends on March 31, 2009, the day before the RCE was filed, the B delay is 548 (not 549) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1000, not 1001 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 06-0916.

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.

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

The 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 (1000)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,591,783 B2

DATED : September 22, 2009

INVENTOR(S) : Dennis R. Boulais

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 (452) days

Delete the phrase "by 452 days" and insert – by 1000 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.
10/956,241	10/01/2004	Richard S. Johnston	016336-003000US	7432

20350 7590 09/07/2010
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
LEE, JOHN W

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/07/2010	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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TECHNOLOGY CENTER 2600

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of:
JOHNSTON, RICHARD S.
Application Serial No.: 10/956,241
Filed: October 01, 2004
For: **REMAPPING METHODS TO REDUCE DISTORTIONS IN IMAGES**

DECISION
ON PETITION

This is a decision on the petition filed May 14, 2010 to request a refund of the payment of extension fees paid on filing of an amendment on September 18, 2009. The petition is treated under 37 CFR 1.181.

The Petition is **Denied**.

Petitioner asserts, "On September 18, 2009, Applicants electronically filed an Amendment in above- identified application with a Two Month extension of time for $245. In this Amendment, Applicants acknowledged the telephone discussion between Applicants' undersigned representative and Supervisory Patent Examiner Ahmed on 5/26/09 and again on 7/23/09, where Examiner Ahmed agreed that the Office Action mailed 4/29/09 would be withdrawn and a followed by a new Office communication. Applicants' undersigned representative conducted a further telephone discussion with Examiner Lee on 7/29/09, where Examiner Lee acknowledged that the 4/29/09 Office Action would be withdrawn, as directed by Examiner Ahmed.

As the errors in the 4/29/09 Office action were called to the attention of the Office within one month of the mail date of the 4/29/09 Office action, per MPEP §710.06 the Office must restart the previously set period for reply to run from the date the error is corrected."

MPEP 710.06 [R-6] Situations When Reply Period Is Reset or Restarted states in part:

> Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office

would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.
Where for any reason it becomes necessary to remail any action (MPEP § 707.13), the action should be correspondingly redated, as it is the remailing date that establishes the beginning of the period for reply.

37 CFR § 1.136 Extensions of time states in part:

(a)
(1) If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17(a) are filed, unless:
(i) Applicant is notified otherwise in an Office action;
(ii) The reply is a reply brief submitted pursuant to § 41.41 of this title;
(iii) The reply is a request for an oral hearing submitted pursuant to § 41.47(a) of this title;
(iv) The reply is to a decision by the Board of Patent Appeals and Interferences pursuant to § 1.304 or to § 41.50 or § 41.52 of this title; or
(v) The application is involved in a contested case (§ 41.101(a) of this title).

A review of the file history reveals a non-final office action was mailed on April 29, 2009. On August 10, 2009, an Interview Summary was mailed indicating examiner confirmed to withdraw previous rejection and a new office action will be sent out corresponding to the previous applicant's remarks. On September 18, 2009 applicant filed a response to the office action of April 29, 2009 along with a petition for a two month extension of time.

In accordance with MPEP 710.06, the period for reply will be restarted the date the error is corrected. It is the remailing date of the action that establishes the beginning of the period for reply.

The file history reveals there is no record of the error that would cause the reply period to be restarted during the time from the office action of April 29, 2009 until applicant's response received on September 18, 2009. Although the Interview Summary indicates the office action would be withdrawn and a new office action would be mailed, regrettably neither action has occurred. Therefore, the error, whatever that may have been, hasn't been corrected nor did the office remail the office action. As a result, a new period for response has not been established by the sequence of events during the time the office action was mailed on April 29, 2009 until applicants response received on September 18, 2009.

In accordance with 37 CFR 1.136(a), a two month extension of time is necessary for the timely filing of the applicant's response received on September 18, 2009.

Therefore, as set forth above, the petition to refund the two month extension of time for $245 is **DENIED.**

The application file will be forwarded to the examiner for appropriate action in due course.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

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JUN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,698,698	:	
Issued: April 13, 2010	:	
Application No. 10/956,247	:	ON PETITION
Filed: September 30, 2004	:	
Attorney Docket No. INSG0020	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 3, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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COPAN SYSTEMS, INC.
1900 PIKE ROAD
LONGMONT CO 80501

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of :
Patent No. 7,187,543 :
Steve Zimlin : NOTICE
Application No. 10/956,248 :
Filed: September 30, 2004 :
Attorney Docket No. **100112-000400US**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 March 03, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SILCON GRAPHICS INTERNATIONAL CORP.**
ATTN. LEGAL DEPT.
46600 LANDING PARKWAY
FREMONT CA 94538

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DICKSTEIN SHAPIRO LLP
2049 CENTURY PARK EAST
SUITE 700
LOS ANGELES CA 90067

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Eli Laufer	:	
Application Number: 10/956,336	:	ON PETITION
Filing Date: 10/04/2004	:	
Attorney Docket Number: 91312-860903	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on November 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 17, 2011, for failure to timely reply to the final Office action mailed on February 16, 2011, which set a three (3)-month shortened statutory period for reply. No extension of the time for reply in accordance with 37 CFR 1.136(a) Notice of Abandonment was mailed on September 14, 2011.

Receipt of the Request for Continued Examination and submission under § 1.114 are acknowledged.

It is noted that the "Terminal Disclaimer to Accompany Petition" filed on November 21, 2011, is not required since the application is a utility or plant application filed on or after June 8, 1995. Therefore, the aforementioned Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file. The fee submitted with the terminal disclaimer of $160.00 will be credited to counsel's credit card.

The application is referred to the Technology Center Art Unit 2493 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN L. JAMES
P.O. BOX 9839
FLEMING ISLAND FL 32006-0035

MAILED

OCT 19 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,195,158	:	
Issue Date: March 27, 2007	:	
Application No. 10/956,390	:	
Filed: October 1, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 24, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted 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 lack items (2) and (3) above.

As to item (2), the maintenance fee in the amount of must be paid in the amount of $565.

As to item (3), a surcharge fee of $1,640 was not submitted with the petition.

In total, including the amount of the renewed petition fee of $400, the amount due is $2,605.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN L. JAMES
P.O. BOX 9839
FLEMING ISLAND FL 32006-0035

MAILED
DEC 13 2011
OFFICE OF PETITIONS

In re Patent No. 7,195,158	:	
Issue Date: March 27, 2007	:	
Application No. 10/956,390	:	ON PETITION
Filed: October 1, 2004	:	
Attorney Docket No.	:	

This is a decision on the renewed 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**.

This patent expired on March 28, 2011, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED
JAN 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Patrick J. Sweeney	:	DECISION ON
Application No. 10/956,455	:	APPLICATION FOR
Filed: 10/01/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
029815-0112	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)," filed on October 8, 2010. Applicants request that the Patent Term Adjustment for the above-identified patent be increased by 64 days from 802 days to 866 days.

The application for patent term adjustment patent is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is EIGHT HUNDRED SIXTY-SIX (866) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 12, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 802 days (802 days of Office delay less 0 days of applicant delay). The subject application for patent term adjustment was timely filed on October 8, 2010.[1]

Applicant asserts that, pursuant 37 CFR 1.703(a)(5) an additional period of adjustment for Office delay of 64 days.

[1] Office PALM records indicate that the issue fee was paid on October 8, 2010.

Applicant's argument is well-taken. On September 25, 2009, a final decision by the Board of Patent Appeals and Interferences was mailed, affirming-in-part the examiner's determination. On March 30, 2010, four months and 64 days after the day after the date the Board Decision was mailed, the Office mailed a communication.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is revised to 866 days (866 (802 + 64) days of PTO delay, reduced by 0 days of Applicant delay).

The application is being forwarded to the Office of Data Management to await payment of the issue fee. Upon timely payment of the issue fee, the patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas Wood
Senior Petitions Attorney
Office of Petitions

Encl: Revised PAIR Calculation

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/956,455

Filing or 371(c) Date:	10-01-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	802
A Delays:	202	PTO Manual Adjustments:	64
B Delays:	0	Applicant Delays:	0
C Delays:	600	Total PTA Adjustments:	866

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
100	01-03-2011	Adjustment of PTA Calculation by PTO	64		0
91	07-12-2010	Mail Notice of Allowance			0
90	07-07-2010	Issue Revision Completed			0
89	07-07-2010	Notice of Allowance Data Verification Completed			0
88	07-07-2010	Document Verification			0
87	07-07-2010	Examiner's Amendment Communication			0
86	06-24-2010	Examiner Interview Summary Record (PTOL - 413)			0
85	07-06-2010	Notice of Allowability			0
84	04-28-2010	Amendment/Argument after BPAI Decision			0
83	03-30-2010	Mail Miscellaneous Communication to Applicant			0
82	03-29-2010	Miscellaneous Communication to Applicant - No Action Count			0
79	03-26-2010	case Inherited			0
78	03-26-2010	Case Docketed to Examiner in GAU			0
77	02-17-2010	case Inherited			0
75	02-01-2010	Case Docketed to Examiner in GAU			0
73	01-20-2010	Case Docketed to Examiner in GAU			0
70	09-25-2009	Mail BPAI Decision on Appeal - Affirmed in Part	600		56
69	09-25-2009	BPAI Decision - Examiner Affirmed in Part			0
68	06-29-2009	Case Docketed to Examiner in GAU			0
67	03-05-2009	Docketing Notice Mailed to Appellant			0
66	03-05-2009	Assignment of Appeal Number			0
65	12-11-2008	Appeal Awaiting BPAI Docketing			0
64	10-16-2008	Case Docketed to Examiner in GAU			0
63	10-06-2008	Appeal ready for BPAI review			0
62	07-09-2008	Exam. Ans. Review Complete			0
60	06-20-2008	Examiner's Answer to Appeal Brief			0
59	04-11-2008	Appeal Brief Review Complete			0
58	04-11-2008	Date Forwarded to Examiner			0
57	04-04-2008	Appeal Brief Filed			0
56	02-04-2008	Notice of Appeal Filed			0
55	12-11-2007	Mail Final Rejection (PTOL - 326)			0
54	12-07-2007	Final Rejection			0
53	10-05-2007	Date Forwarded to Examiner			0
52	10-02-2007	Response after Non-Final Action			0
51	07-26-2007	Mail Non-Final Rejection			0
50	07-23-2007	Non-Final Rejection			0
49	05-21-2007	Date Forwarded to Examiner			0
48	05-17-2007	RCE- AF Processed			0
47	05-21-2007	Date Forwarded to Examiner			0
46	05-17-2007	Request for Continued Examination (RCE)			0
45	05-21-2007	Disposal for a RCE / CPA / R129			0

44	05-17-2007	Workflow - Request for RCE - Begin		0
43	05-03-2007	Mail Advisory Action (PTOL - 303)		0
42	04-30-2007	Advisory Action (PTOL-303)		0
41	04-23-2007	Date Forwarded to Examiner		0
40	04-20-2007	Amendment after Final Rejection		0
39	02-21-2007	Mail Final Rejection (PTOL - 326)		0
38	02-16-2007	Final Rejection		0
37	11-15-2006	Information Disclosure Statement considered		0
36	12-12-2006	Date Forwarded to Examiner		0
35	11-15-2006	Response after Non-Final Action		0
34.7	11-15-2006	Information Disclosure Statement (IDS) Filed		0
34	11-15-2006	Information Disclosure Statement (IDS) Filed		0
33	08-25-2006	Mail Non-Final Rejection		0
32	08-21-2006	Non-Final Rejection		0
31	07-06-2006	Information Disclosure Statement considered		0
30	07-28-2006	Date Forwarded to Examiner		0
29	07-19-2006	Response to Election / Restriction Filed		0
28	07-06-2006	Reference capture on IDS		0
27.7	07-06-2006	Information Disclosure Statement (IDS) Filed		0
27	07-06-2006	Information Disclosure Statement (IDS) Filed		0
26	06-21-2006	Mail Restriction Requirement	202	-1
25	06-14-2006	Requirement for Restriction / Election		0
24	12-09-2005	Information Disclosure Statement considered		0
23	08-24-2005	Information Disclosure Statement considered		0
22	06-20-2005	Information Disclosure Statement considered		0
21	01-03-2005	Information Disclosure Statement considered		0
20	12-09-2005	Reference capture on IDS		0
19.7	12-09-2005	Information Disclosure Statement (IDS) Filed		0
19	12-09-2005	Information Disclosure Statement (IDS) Filed		0
18	10-18-2005	Case Docketed to Examiner in GAU		0
17	10-17-2005	IFW TSS Processing by Tech Center Complete		0
16	10-17-2005	Case Docketed to Examiner in GAU		0
15	08-24-2005	Reference capture on IDS		0
14.7	08-24-2005	Information Disclosure Statement (IDS) Filed		0
14	08-24-2005	Information Disclosure Statement (IDS) Filed		0
13	06-20-2005	Reference capture on IDS		0
12.7	06-20-2005	Information Disclosure Statement (IDS) Filed		0
12	06-20-2005	Information Disclosure Statement (IDS) Filed		0
11	01-03-2005	Reference capture on IDS		0
10.7	01-03-2005	Information Disclosure Statement (IDS) Filed		0
10	01-03-2005	Information Disclosure Statement (IDS) Filed		0
9	01-27-2005	Transfer Inquiry to GAU		0
8	11-18-2004	Application Return from OIPE		0
7	11-18-2004	Application Return TO OIPE		0
6	11-17-2004	Application Dispatched from OIPE		0
5	11-18-2004	Application Is Now Complete		0
4	11-10-2004	Cleared by OIPE CSR		0
3	11-10-2004	CASE CLASSIFIED BY OIPE		0
2	10-20-2004	IFW Scan & PACR Auto Security Review		0
1	10-01-2004	Initial Exam Team nn		0

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

SEP 28 2010

OFFICE OF PETITIONS

In re Application :
Aron Rosenberg et al. :
Application No. 10/956,480 : DECISION ON APPLICATION
Filed: October 1, 2004 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **S2003-700510** :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b) filed February 11, 2010. Applicant requests that the determination of patent term adjustment be corrected from 590 days to 768 days.

The application for patent term adjustment is **DISMISSED**.

On November 12, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 590 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 112 days of PTA for the filing of a response to the non-Final Office Action mailed January 2, 2009 and argue that an additional period of 66 days should be accorded for Office delay.

Applicants state that a response was filed on May 4, 2009 to a non-Final Office Action mailed January 2, 2009, and that on August 24, 2009, without making any amendments, Applicants filed a reply to the Notice of Non-Compliant Amendment mailed August 19, 2009. In the response filed, Applicants asserted that the Notice of Non-Compliant Amendment was improper and requested the withdrawal of the Notice of Non-Compliant Amendment and allowance. In response to Applicant' s reply, Applicants indicate that the Office withdrew the improper Notice of Non-Compliant Amendment and issued a Notice of Allowance on November 9, 2009.

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[1] PALM records indicate that the Issue Fee was also received on February 12, 2010.

Applicants argue first that the Office failed to mail a notice of allowance under 35 U.S.C. 151 until November 9, 2009 and that a period of delay of 66 days due to failure by the Office to mail a Notice of Allowance under 35 USC § 151 not later than 4 months after the filing date of the reply filed May 4, 2009 (i.e., by September 4, 2009) (hereinafter "4 month Delay") (see 37 CFR § 1.703(a)(2)) should be accorded for Examination delay. Second, Applicants argue that due to the improper Notice of Non-Compliant Amendment issued by the Office, no period of Applicant delay should have resulted from the response filed August 24, 2009, the period of 112 days delay accorded the Applicant should be removed and thus, the total Applicant delay should be 125 (93 + 32) days.

Applicant's argument is not persuasive. 37 CFR 1.702(a)(2) provides that: Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

> Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken.

In this instance, the mailing of the Notice of Non-Compliant Amendment and the subsequent Notice of Allowance mailed November 9, 2009, in response to and within four months of receipt of applicant's response filed August 24, 2009. The Office did not fail to take action in response to applicant's response within the time provided for in 37 CFR 1.702(a)(2). The fact that the Office subsequently mailed the Notice of Allowance does not negate the fact that the Office took action within the meaning of 37 CFR 1.702(a)(2) on August 19, 2009 with the mailing of the Notice of Non-Compliant Amendment. Accordingly, entry of an additional period of adjustment of 66 days for examination delay pursuant to 37 CFR 1.702(a)(2) is not warranted.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

It is undisputed that a reply was filed on May 4, 2009 however, that reply had an omission and the omission was corrected on August 24, 2009, one hundred twelve (112) days after the filing of the initial response on May 4, 2009. Therefore the reduction is proper.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 590 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

In view thereof, the patent term adjustment at the time of mailing of the notice of allowance remains 590 days.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,243,752 :
Issue Date: July 17, 2007 :
Application No. 10/956,483 : NOTICE
Filed: October 1, 2004 :
Attorney Docket No. 7400-X04-074 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date: 05/24/11

Patent No. : **7,877,378 B2**
Ser. No. : **10/956,487**
Inventor(s) : **Malinin , et al.**
Issued : **February 26, 2008**
Title : Transplantable particulate bone composition having high osteoinductive capacity and methods for making and using same
Docket No. : **03010/01US**

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

ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

LMN

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Paper No.

PATRICK R.H. WALLER
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600 ATLANTIC AVENUE
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MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of :
Krieg et al. :
Application No. 10/956,494 : ON APPLICATION FOR
Filed: 10/01/2004 : PATENT TERM ADJUSTMENT
Atty Docket No. :
C1039.70048US13 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B)," filed on October 8, 2010. Applicant asserts that the correct patent term adjustment is 866 days rather than 285 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicant asserts entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay, under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months 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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,592,970	:	DECISION ON REQUEST
Matthies et al.	:	FOR
Issue Date: September 22, 2009	:	RECONSIDERATION OF
Application No. 10/956,661	:	PATENT TERM ADJUSTMENT
Filed: October 1, 2004	:	and
Atty Docket No. 088245-4073	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 13, 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 **eight hundred sixty-five (865)** days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **eight hundred three (803)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 2, 2007 and ends on April 22, 2008, the day *before* the first RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 204 days.

In addition, a review of the record reveals that after the filing of a request for continued examination on April 23, 2008, on June 23, 2008, applicant filed an amendment. The record does not support a conclusion that the amendment was expressly requested by the examiner. In view thereof, pursuant to 37 CFR

1.704(c)(8), a period of reduction of 61 days is entered for applicant delay. Thus, the patent term adjustment is increased by 204 days and decreased by 61 days to 803 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 **eight hundred three (803)** 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 : 7,592,970 B2

DATED : **September 22, 2009** **DRAFT**

INVENTOR(S) : Matthies 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 660 days

Delete the phrase "by 660 days" and insert – by 803 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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED
APR 01 2011
OFFICE OF PETITIONS

In re Application of :
Gilad GOLAN, et *al.* :
Application No. 10/956,667 : DECISION GRANTING PETITION
Filed: October 1, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **418268055US1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 31, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 30, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2434 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,317,108
Issued: 01/08/2008
Application No. 10/956,781
Filed: 10/01/2004
Attorney Docket No. 5051-686IP

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 1, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Gregory D.Caster, et al.	:	
Application No. 10/957,028	:	DECISION ON PETITION
Filed: September 30, 2004	:	
Attorney Docket No. 2004-0163.01	:	

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 18, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 18, 2010. Accordingly, the date of abandonment of this application is August 19, 2010. The Notice of Abandonment was mailed September 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-13-11

TO SPE OF : ART UNIT ~~2175~~ 2171

SUBJECT : *Request for Certificate of Correction for Appl. No.:* 10/957037 Patent No.: 7640502

CofC mailroom date: 04-05-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes are for correcting printing errors, and would neither expand nor contract the scope of the claims.

/Stephen Alvesteffer/ (AU2171) 03/27/2012

SPE _____ Art Unit 2171

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-13-11

TO SPE OF : ART UNIT 2175

SUBJECT : *Request for Certificate of Correction for Appl. No.:* 10/957037 Patent No.: 7640502

CofC mailroom date: 04-05-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: Changes are for correcting printing errors, and would neither expand nor contract the scope of the claims.

/Stephen Alvesteffer/ (AU2171) 03/27/2012

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DAVID AND RAYMOND PATENT FIRM
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

MAILED

SEP 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,108,388
Issue Date: September 19, 2006
Application No. 10/957,056
Filed: October 1, 2004
Attorney Docket No: **USDP2752A-WYL**

ON PETITION

This is a decision on the petition filed August 29, 2011 under 37 CFR 1.378(c)[1], to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378 (c) is **GRANTED.**

The patent issued on September 9, 2006. The first maintenance fee due could have been paid during the period from September 19, 2009 to March 19, 2010 or, with a surcharge during the period from March 20, 2010 to September 19, 2010. Accordingly, this patent expired on September 19, 2010 for failure to timely remit the first maintenance fee.

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 $490.00 for the first maintenance fee and $1,640.00 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(i)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

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Lando & Anastasi LLP
One Maine Street, Suite 1100
Cambridge MA 02142

MAILED
SEP 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,634,146 Rosenberg Issue Date: 12/15/2009 Application No. 10/957,074 Filed: October 1, 2004 Attorney Docket No. S2003-700310 Title: Method and Apparatus for Encoding and Decoding Video Data	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

A telephonic call to counsel Dave Roccio of firm Of Lando & Anastasi resulted in agreement as to an amount of 1200 days of PTA.

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by twelve hundred (1200) 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 twelve hundred (1200) 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 : 7,634,146

DATED : **October 1, 2004** **DRAFT**

INVENTOR(S) : Rosenberg

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 834 days

Delete the phrase "by 834 days" and insert – by 1200 days--

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10957074 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10957074

Application Filing Date	10/01/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	12/15/2009	Non-Overlapping USPTO Delays:	912
A Delays	912	PTO Manual Adjustment	366
B Delays	0	Applicant Delay (APPL)	78
C Delays	0	Total PTA (days)	1200

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
84	09/08/2011		P028	Adjustment of PTA Calculation by PTO	366		0
77	12/15/2009		PTAC	Patent Issue Date Used in PTA Calculation			0
77.5	11/24/2009	10/01/2007	PTA36M	PTA 36 Months	0		0
76	11/11/2009		EFDC	Export to Final Data Capture			0
75	11/10/2009		D1935	Dispatch to FDC			0
74	11/09/2009		PILS	Application Is Considered Ready for Issue			0
73	11/04/2009		N084	Issue Fee Payment Verified			0
72	11/04/2009		IFEE	Issue Fee Payment Received			0
71	10/08/2009		FIDC	Finished Initial Data Capture			0
67	09/21/2009		MN/=.	Mail Notice of Allowance			0
66	09/16/2009		IREV	Issue Revision Completed			0
65	09/16/2009		DVER	Document Verification			0
64	09/16/2009		N/=.	Notice of Allowance Data Verification Completed			0
63	09/14/2009		CNTA	Allowability Notice			0
62	09/08/2009		FWDX	Date Forwarded to Examiner			0
60	07/21/2009		EML_NTR	Email Notification			0
59	07/21/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
61	07/15/2009		A...	Response after Non-Final Action			0
58	07/14/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
57	06/12/2009		ELC_RVW	Electronic Review			0
56	06/12/2009		EML_NTR	Email Notification			0
55	06/12/2009		EML_NTF	Email Notification			0
54	06/12/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
53	06/12/2009		MCTNF	Mail Non-Final Rejection			0
51	06/08/2009		CTNF	Non-Final Rejection			0
50	06/05/2009		FWDX	Date Forwarded to Examiner			0
48	06/05/2009		FWDX	Date Forwarded to Examiner			0
46	06/05/2009		ABN9	Disposal for a RCE / CPA / R129			0
49	06/02/2009		AMPR	RCE- AF Processed			0
47	06/02/2009	03/16/2009	RCEX	Request for Continued Examination (RCE)		78	37
45	06/02/2009		BRCE	Workflow - Request for RCE - Begin			0
44	06/02/2009		EML_NTR	Email Notification			0
43	06/02/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
42	05/28/2009		CTAV	Advisory Action (PTOL-303)			0
41	05/19/2009		FWDX	Date Forwarded to Examiner			0
40	05/18/2009		A.NE	Amendment after Final Rejection			0
52	04/16/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
39	12/16/2008		ELC_RVW	Electronic Review			0
38	12/16/2008		EML_NTF	Email Notification			0
37	12/16/2008	12/15/2008	MCTFR	Mail Final Rejection (PTOL - 326)	1		34
36	12/08/2008		CTFR	Final Rejection			0
35	09/26/2008		FWDX	Date Forwarded to Examiner			0
34	08/15/2008		A...	Response after Non-Final Action			0
33	06/03/2008		ELC_RVW	Electronic Review			0
32	05/31/2008		EML_NTF	Email Notification			0
31	05/30/2008	12/01/2005	MCTNF	Mail Non-Final Rejection	911		-1
30	05/27/2008		CTNF	Non-Final Rejection			0
23	08/31/2007		DOCK	Case Docketed to Examiner in GAU			0
22	04/04/2006		DOCK	Case Docketed to Examiner in GAU			0
20	03/22/2006		DOCK	Case Docketed to Examiner in GAU			0
21	03/21/2006		LET.	Miscellaneous Incoming Letter			0
19	02/17/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
26	10/31/2005		IDSC	Information Disclosure Statement considered			0
18	10/31/2005		RCAP	Reference capture on IDS			0
17.7	10/31/2005		M844	Information Disclosure Statement (IDS) Filed			0

17	10/31/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
16	05/06/2005	DOCK	Case Docketed to Examiner in GAU	0
15	04/26/2005	DOCK	Case Docketed to Examiner in GAU	0
14	02/23/2005	WROIPE	Application Return from OIPE	0
13	02/23/2005	ROIPE	Application Return TO OIPE	0
12	02/23/2005	WROIPE	Application Return from OIPE	0
11	02/23/2005	COMP	Application Is Now Complete	0
10	02/23/2005	ROIPE	Application Return TO OIPE	0
9	02/22/2005	OIPE	Application Dispatched from OIPE	0
8	02/22/2005	COMP	Application Is Now Complete	0
7	01/24/2005	FLFEE	Payment of additional filing fee/Preexam	0
6	01/24/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	11/19/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
4	11/10/2004	L194	Cleared by OIPE CSR	0
3	11/10/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	10/27/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	10/01/2004	IEXX	Initial Exam Team nn	0

Export to: Excel

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6945273	2005-09-20	10957168	2004-09-30	BANJO-P0008-1

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).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin R Erdman/	Date (YYYY-MM-DD)	2010-08-20
Name	Kevin R Erdman	Registration Number	33687

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. 6945273
Issue Date: September 20,2005
Application No. 10957168
Filed: September 30,2004
Attorney Docket No. BANJO-P0008-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 20,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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United States Patent and Trademark Office
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RAY K. SHAHANI, ESQ., ATTORNEY AT LAW
TWIN OAKS OFFICE PLAZA
477 NORTH NINTH AVENUE, SUITE 112
SAN MATEO CA 94402-1858

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Ashok K. KAPOOR	:	
Application No. 10/957,169	:	DECISION ON REQUEST FOR
Filed: September 30, 2004	:	REVOCATION OF POWER
Attorney Docket No.	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed August 12, 2010 and re-submitted November 1, 2010.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **BUCHANAN INGERSOLL, P.C.**
650 COLLEGE ROAD EAST, 4TH FLOOR
PRINCETON, NJ 08540

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

CONNOLLY BOVE LODGE & HUTZ, LLP
P.O. BOX 2207
WILMINGTON, DE 19899

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Ashok K. KAPOOR	:	
Application No. 10/957,169	:	DECISION ON PETITION
Filed: September 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 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 7, 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 May 8, 2009.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810; and (3) 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 2458 for appropriate action by the Examiner in the normal course of business on the reply received August 12, 2010.

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 (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: Ganguly 3-17-7-57 (S)-US-NP	Patent Number: 7,668,856
Filing Date (or 371(b) or (f) Date): September 30, 2004	Issue Date: February 23, 2010
First Named Inventor: Sumit Ganguly	
Title: Method for distinct count estimation over joins of continuous update stream	

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 10, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
25 James Way
Eatontown, NJ 07724

Mail Date: 08/18/2010

Applicant	: Sumit Ganguly	: DECISION ON REQUEST FOR
Patent Number	: 7668856	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/957,185	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1079** 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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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,598,059
Issued: October 6, 2009
Application No. 10/957,221
Filed: October 1, 2004
Attorney Docket No. 13751-0043001
/A200 US 002

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed December 4, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 389 days to 414 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by four hundred nine (409) days and is **GRANTED to the extent indicated herein**.

Patentee has miscalculated the total patent term adjustment. In this instance the period consumed by appellate review begins on September 26, 2007 and ends on November 29, 2007 and is 64 days. As such, the patent term adjustment is 409 days (84 "A delay" days plus 736 "B delay" days minus 64 Appellate Review days minus 347 Applicant delay days), not 414 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**

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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 **four hundred nine (409)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,059 B2

DATED : October 6, 2009

INVENTOR(S) : Nels E. Pederson

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 (389) days

Delete the phrase "by 389 days" and insert – by 409 days--

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JUL 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,598,059
Issued: October 6, 2009
Application No. 10/957,221
Filed: October 1, 2004
Attorney Docket No. 13751-0043001 / A200 US 002

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed March 3, 2011, under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected from 409 days to 473 days.

Patentee's dispute the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 64 days, beginning on September 26, 2007, the date of filing of the notice of appeal and ending on November 29, 2007, the subsequent date of the mailing of a non-Final Office Action. Thus, B delay is 672 (736 – 64) days.

As such, the Patent Term Adjustment is 409 days (84 "A delay days" + 672 "B delay days" - 347 Applicant delay days), as indicated in the previous decision issued October 1, 2011, not 473 days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the

date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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 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 nine (409) days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,059 B2

DATED : October 6, 2009

INVENTOR(S) : Nels E. Pederson

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 (389) days

Delete the phrase "by 389 days" and insert – by 409 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/957,411	10/01/2004	Janet L. Boyle	P6431US	6692

30173 7590 10/03/2011
GENERAL MILLS, INC.
P.O. BOX 1113
MINNEAPOLIS, MN 55440

EXAMINER
TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
1789	

MAIL DATE	DELIVERY MODE
10/03/2011	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 JANET L. BOYLE,
CAROLINA M. HOXIE, and THOMAS J. FORT

Appeal No. 2011-001501
Application 10/957,411
Technology Center 1700

DECISION ON PETITION

This is a decision on the "Petition to Expunge Unintentionally Submitted Information" filed September 19, 2011 ("Petition"). The Petition seeks that "the following unintentionally submitted information be expunged from the file history for U.S. Patent Application No. 10/957,411." Petition, 1. The Petition will be treated as a petition to the Chief Administrative Patent Judge under 37 C.F.R. § 41.3

FINDINGS

1. On March 10, 2010, Appellants filed a Notice of Appeal.
2. On May 10, 2010, Appellants filed an Appeal Brief.
3. On July 19, 2010, Examiner mailed an Examiner's Answer.

4. On November 6, 2010, the Board of Patent Appeals and Interferences (Board) mailed a Docketing Notice to Appellants.

5. On September 16, 2011, counsel unintentionally filed an amendment in this application. The amendment was met for Application No. 11/956,436.

6. On September 19, 2011, Appellants filed this petition.

DISCUSSION

In view of the fact that the amendment was not met for this application, the petition is granted. The documents filed September 16, 2011, will be closed.

DECISION

In view of the foregoing, the Petition is GRANTED.

The papers filed September 16, 2011 will be closed.

DMS/bar

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

MAILED

MAR 25 2011

PCT LEGAL ADMINISTRATION

In re Application of	:
GERONI, et al.	:
Application No. 10/957,507	: DECISION ON PETITION
Filed: October 01, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 17704	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 23 November 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed 23 August 2010.

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 application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in

that (1) a reference to the prior-filed international application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78 that the entire period of delay was unintentional and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 and 365 (c) to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. 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 1614 for appropriate action on the response filed 23 November 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365 (c) to the prior-filed international application.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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NOV 08 2010

OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of:	:
Miller et al.	:
Pat. No.: 7,710,961	:
Issue Date: 05/04/2010	: ON APPLICATION FOR
Application No. 10/957535	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 10/01/2004	:
Atty. Docket No.: 32052-8003.US8	:

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(d)," filed July 6, 2010. Patentees request that the determination of patent term adjustment be corrected to 1095 days.

The request for reconsideration of patent term adjustment is **DISMISSED.**

As to the "B" delay, the period is 421 days, not 573 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 the day before the RCE was filed, or 573 days, but not including the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 152 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is 421 (573 days – 152 days), not 573 days.

As to the period of overlap, between the "A" delay period and the "B" delay period, the overlap is zero (0) days, not 30 days.

A review of the application file history also reveals that the Office errantly neglected to assess a reduction of 9 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of an Information Disclosure Statement ("IDS") after the mailing of the Notice of Allowance. The reduction of 9 days is appropriate, beginning on the date the IDS was filed, January 21, 2010, and ending on the mailing date of the Office action or notice in response to the IDS, January 29, 2010.

A further review of the application file history also reveals that the Office errantly neglected to assess a reduction of 19 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of a second IDS after the mailing of the Notice of Allowance. The reduction of 19 days is appropriate, beginning on the date the IDS was filed, February 26, 2010, and ending on the mailing date of the Office action or notice in response to the IDS, March 16, 2010, is appropriate.

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 nine hundred fifteen **(945)** 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 : 7,710,961 B2

DATED : **May 4, 2010**

INVENTOR(S) : Miller et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby
corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 973 days.

Delete the phrase "by 973 days" and insert – by 945 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)
7131598	2006-11-07	10958053	2004-10-04	RATNIK-10

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/7131598/H. Ronald Ratnik/	Date (YYYY-MM-DD)	2010-12-29
Name	H. Ronald Ratnik		

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. 7131598
Issue Date: November 7,2006
Application No. 10958053
Filed: October 4,2004
Attorney Docket No. RATNIK - 10

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed December 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RISSMAN HENDRICKS & OLIVERIO, LLP
100 Cambridge Street
Suite 2101
Boston MA 02114

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of	:	
SANTAMORE et al.	:	
Application No. 10/958,063	:	DECISION ON APPLICATION
Filed: October 4, 2004	:	FOR
Atty Docket No. S011-7000US3	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed May 20, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to three hundred eighteen (318) days.

The request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance is **DISMISSED**.

On February 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 to date is zero (0) days. Applicants timely filed the instant application for patent term adjustment[1].

In the present petition, applicants assert that their response to the Restriction Requirement filed January 25, 2008, was fully responsive and that the Notice of Non-Responsive Reply of July 16, 2008, was mailed in error. Accordingly, applicants maintain that the reduction of 326 days for applicant delay pursuant to 37 CFR 1.704(c)(7) is not warranted.

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[1] PALM Records indicate that the Issue Fee payment was received on May 23, 2011.

Pursuant to 37 CFR 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed[.]

On January 25, 2008, applicants filed a response to the Restriction Requirement requiring correction. On July 16, 2008, the Office mailed a Notice of Non-Responsive Reply advising applicants of the omission in their response. On December 16, 2008, applicants filed a response correcting the omission. Applicants explain:

> In the December 2008 Response (*see* Exhibit E), Applicants confirmed the election of the claims directed to methods of treating myocardial tissue and the four elections of species - exactly as set forth in the January 2008 Response. Upon further study of these elections and the pending claims, Applicants also slightly revised the identification of claims encompassing the elected species. Particularly, Applicants noted that claims 142, 149, and 178 were inadvertently included in the original identification of claims in the January 2008 Response and therefore withdrew these three claims from the listing. Further, Applicants noted that claim 128 was inadvertently omitted from the original identification of claims in the January 2008 Response and therefore added this claim to the listing. Nonetheless, a Notice of Non-Responsive Reply was not the appropriate action to have been taken by the examiner in response to the January 2008 Response.

Petition, 05/20/11, pp. 6-7.

The Office notes that although applicants disputed the appropriateness of the Notice of Non-Responsive Reply, applicants filed a revised response to the Restriction

Requirement correcting the omission. The Office further notes, the examiner did not indicate in the non-final Office action of September 9, 2009, that she agreed with applicants' argument that the reply filed on January 25, 2008, was fully responsive nor was any action taken to vacate the Notice of Non-Responsive Reply. Accordingly, the filing of the non-responsive reply on January 25, 2008, is a proper basis for reduction of patent term under 37 CFR 1.704(c)(7). Thus, the reduction of 326 days for the submission of a reply having an omission is warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains zero (0) days.

The Office acknowledges the $200.00 fee set forth in 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 applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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COASTAL PATENT, LLC
P.O.BOX 232340
SAN DIEGO CA 92193

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Ryan M. DELUZ	:	
Application No. 10/958,146	:	DECISION ON PETITION
Filed: October 04, 2004	:	
Attorney Docket No. SMTCV.003A	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 12, 2005. 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. Accordingly, the application became abandoned on November 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of September 12, 2005 is accepted as having been unintentionally delayed.

The power of attorney filed by the inventor with the petition on November 11, 2009 is accepted and made of record.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

This application is being referred to the Office of Patent Application Processing for further processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Johnson & Associates
317A E. Liberty Street
Savannah GA 31401

MAILED
OCT 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Nicolau et al.	:	
Application No. 10/958,211	:	DECISION ON PETITION
Filed: October 4, 2004	:	UNDER 37 CFR 1.78(a)(6)
Atty Docket No. ACI-0402	:	

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY PURSUANT TO 37 C.F.R. §1.78(a)(3) filed September 22, 2011, to accept the unintentionally delayed claim of priority to U.S. Provisional Patent Application No. 60/449,573.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, 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 37 CFR 1.78(a)(5)(ii), respectively, 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 application was filed after November 29, 2000. A review of the application as filed reveals that the claims for priority set forth on petition were not submitted on filing in the first sentence of the specification or in an application data sheet. With respect to intermediate application No. 10/783,975, an amendment was filed on March 9, 2007 to include the specific reference to this prior application as a continuation-in-part. This was within the sixteen-month period specified in 37 CFR § 1.78(a)(2)(ii). However, with respect to the prior-filed provisional application, the amendment referred to the provisional application; however, the amendment was not filed within the four or sixteen-month period specified in 37 CFR § 1.78(a)(5)(ii). This period having expired a petition under 37 CFR 1.78(a)(6) is appropriate with respect to accepting the delayed claim for benefit of the provisional application set forth in the amendment filed March 9, 2007. In addition, the petition includes the required statement of unintentional delay and the required surcharge.

With respect to 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6), the claim for benefit of priority under 35 U.S.C. § 119(e) of provisional application no. 60/449,573 was made in intermediate application no. 10/783,975 on filing, on February 20, 2004. The filing date of provisional application no. 60/449,573 for which priority is claimed is, February 21, 2003, which is within twelve months of the filing date of intermediate application No. 10/783,975.

Unfortunately, a review of the amendment filed March 9, 2007 reveals that it is not in compliance with 37 CFR 1.121(b). The replacement paragraph does not contain markings to show all the changes relative to the previous version of the paragraph.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Savannah GA 31401

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OFFICE OF PETITIONS

In re Application of	:	
Nicolau et al.	:	
Application No. 10/958,211	:	DECISION ON PETITION
Filed: October 4, 2004	:	UNDER 37 CFR 1.78
Atty Docket No. ACI-0402	:	

This is a decision on the renewed PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY PURSUANT TO 37 C.F.R. §1.78(a)(3) filed October 26, 2011, to accept the unintentionally delayed claims of priority to application No. 10/783,975, which claims priority to U.S. Provisional Patent Application No. 60/449,573. This decision is made in light of the amendment filed November 1, 2011.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and (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 (5)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR §§ 1.78(a)(3) and (6), must be accompanied by:

(1) the reference required 35 U.S.C. §§ 120 and 37 CFR 1.78(a)(2)(i) and 35 U.S.C. §§ 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)(2)(ii) and (5)(ii), and the date the claim was filed was unintentional. The

Director may require additional information where there is a question whether the delay was unintentional.

By decision mailed October 13, 2011, the initial petition under 37 CFR 1.78(a)(6) was dismissed. The requirements of the rule were met, except the amendment filed March 9, 2007 to amend the specification to include the priority claim was not in compliance with 37 CFR 1.121(b).

On instant renewed petition, applicants filed an amendment in compliance; however, a review of the amendment revealed a typographical error. On November 1, 2011, applicants filed a new amendment. This amendment is acceptable. As the original amendment was not in compliance and the reference to the continuation-in-part application was not made of record, this petition is treated as a request to accept the unintentionally delayed claim of both application No. 10/783,975 and 60/449,573.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. § 120 and 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR § 1.78(a)(3) and (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 application, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (2), and §§119(e) and 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning

either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1644 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) of the prior-filed application as set forth in the amendment filed November 1, 2011.

Nancy Johnson
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
10/958,211	10/04/2004	1644	460	ACI-0402	14	2

CONFIRMATION NO. 1826

CORRECTED FILING RECEIPT

95280
Johnson & Associates
317A E. Liberty Street
Savannah, GA 31401

OC000000050882327

Date Mailed: 11/09/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Yves Claude Nicolau, Legier, SWITZERLAND;
Ruth Greferath, Kehl, GERMANY;
David Hickman, Strasbourg, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number 95280

Domestic Priority data as claimed by applicant

This application is a CIP of 10/783,975 02/20/2004 ABN
which claims benefit of 60/449,573 02/21/2003

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 01/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/958,211**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Methods and compositions comprising supramolecular constructs

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 14 2010

OFFICE OF PETITIONS

Accenture c/o Murabito, Hao & Barned LLP
Two North Market Street, Third Floor
San Jose CA 95113

In re Application of	:	
Laurence G. Esmonde, Jr.	:	
Application No. 10/958,561	:	DECISION ON PETITION
Filed: October 5, 2004	:	
Attorney Docket No. **ACNR-D04-062/02136-00/US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 24, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 25, 2009

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2128 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **3-30-11**

TO SPE OF : ART UNIT **2168**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10958649** Patent No.: **7882074**

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: _____

/Tim Vo/
SPE

2168
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/15/11

TO SPE OF : ART UNIT 1721

SUBJECT : Request for Certificate of Correction for Appl. No.: 10958669 Patent No.: 7625674

CofC mailroom date: 07/06/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: _____

_____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XX Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

/Mark F. Huff/ 1721
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
DIW Jan-11

Paper No.

ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

MAILED
JAN 12 2011
OFFICE OF PETITIONS

In re Patent No. 7105975	:	
Issue Date: 09/12/2006	:	
Application Number: 10/958903	:	ON PETITION
Filing Date: 10/05/2004	:	
Attorney Docket Number: 0092-11	:	
	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 9, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 12, 2010, for failure to timely pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

MAILED
AUG 19 2010
OFFICE OF PETITIONS

In re Application of
Kazuyoshi Kuroda, et al.
Application No. 10/959,069
Filed: October 7, 2004
Attorney Docket No.: KOMI : 033

ON PETITION

This is a decision on the petition, filed June 21, 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 for failure to reply in a timely manner to the non-final Office action mailed November 15, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on August 21, 2008. On June 21, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1795 for consideration of the response filed June 21, 2010.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
SEP 27 2011
OFFICE OF PETITIONS

ALIX YALE & RISTAS LLP
750 MAIN ST
HARTFORD CT 06103

In re Patent No. 7,111,662
Issue Date: September 26, 2006
Application No. 10/959,444
Filed: October 5, 2004

DECISION ON PETITION

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed September 1, 2011.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued September 26, 2006. Accordingly, the first maintenance fee could have been paid during the period from September 26, 2009 through March 26, 2010 without surcharge, or with a late payment surcharge during the period from March 27, 2010 through September 26, 2010. No maintenance fee having been received, the patent expired on September 27, 2010.

Since the instant petition was filed 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 in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Howard N. Sommers
22613 Jameson Drive
Calabasas CA 91302

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael M. Mann, et al.	:	
Application No. 10/959,640	:	DECISION ON PETITION
Filed: October 7, 2004	:	
Attorney Docket No. ENCMP-69665	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 21, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 22, 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 $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3623 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark J. Pandiscio
Pandiscio & Pandiscio
470 Totten Pond Road
Walthem, MA 02154

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Patent No. 7,373,969	:	
Issue Date: May 2, 2008	:	
Application No. 10/959,920	:	NOTICE
Filed: October 5, 2004	:	
Patentee(s): Paul A. Chambers	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed on September 26, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Margaret M. Carley appearing on the request shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

March 13, 2012

Kerry H. Owens
Goodwin Procter LLP
901 New York Avenue
Suite 900
Washington, DC 20001

Patent No. : 7,792,717 B1
Appl. No. : 10/960,012
Inventor(s) : Matthew Hankins, et al.
Issued : September 7, 2010
Title : **WATERFALL PRIORITIZED PAYMENT PROCESSING**
Docket No. : J47004.000247

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A petition to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANGLEHART ET AL
SUITE 258
393 ST-JACQUES
MONTREAL QC H2Y IN9 CA
CANADA

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re application of
Nicholas Routhier et al
Application No. 10/960,058
Filed: October 8, 2004
Attorney Docket No. P1013US01

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on October 6, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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.
10/960,135	10/06/2004	Robert P. Morris	I282/US	5642

49278 7590 10/19/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
NGUYEN, THANH T

ART UNIT	PAPER NUMBER
2448	

DATE MAILED: 10/19/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES 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.
10/960,135	10/06/2004	Robert P. Morris	1282/US	5642

49278 7590 10/19/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
NGUYEN, THANH T

ART UNIT	PAPER NUMBER
2448	

MAIL DATE	DELIVERY MODE
10/19/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Scenera Research, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

MAILED

OCT 19 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of:
Morris
Appl. No.: 10/960,135
Filed: October 6, 2004
For: **SYSTEM AND METHOD FOR UTILIZING CONTACT INFORMATION, PRESENCE INFORMATION AND DEVICE ACTIVITY**

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on September 12, 2011. This is the fourth petition for suspension.

The petition is **GRANTED**.

Pursuant to applicant's request filed on September 12, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from the mailing of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Christopher Grant whose telephone number is (571) 272-7294.

/Christopher Grant/
Christopher Grant, WQAS
Technology Center 2400

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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.
10/960,184	10/07/2004	John M. Lake	RSW920040117US1 8152-0061	4101

52023 7590 09/28/2011
Cuenot, Forsythe & Kim, LLC
20283 State Road 7
Ste. 300
Boca Raton, FL 33498

EXAMINER
CYGIEL, GARY W

ART UNIT	PAPER NUMBER
2187	

NOTIFICATION DATE	DELIVERY MODE
09/28/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ibmptomail@iplawpro.com

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN M. LAKE

Appeal 2009-007077
Application 10/960,184
Technology Center 2100

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. § 41.3," filed September 2, 2011 ("Petition"). The Petition requests "that all of the appealed rejections be reviewed, and a Decision be rendered that is compliant with 37 C.F.R. § 41.50(a)(1), in which all of the appealed rejections are either affirmed or reversed (in whole or in part) or the Application is remanded to the Examiner." (Petition 26). The petition fee of $400 pursuant to 37 C.F.R. § 1.17(f) was charged to the Petitioner's deposit account on September 2, 2011.

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FINDINGS

1) On December 13, 2007, a Final Rejection was mailed to Petitioner. Claims 9-16 were rejected under 35 U.S.C. § 101; claims 1, 2, 6, 9, 10, 14, 17, 18, 22, and 25 were rejected under 35 U.S.C. § 102(e) over Findeisen (US 2004/0181562 A1 published Sept. 16, 2004); and claims 3-5, 11-13, and 19-21 were rejected under 35 U.S.C. § 103 over Findeisen and Goodnow (US 5,590,329 issued December 31, 1996).
2) On February 27, 2008, Petitioner filed a Notice of Appeal.
3) On July 30, 2008, Petitioner filed an Appeal Brief.
4) On September 19, 2008, an Examiner's Answer was mailed to Petitioner.
5) On April 8, 2011, a Decision On Appeal was mailed to Petitioner. The panel affirmed the rejection of claims 9-16 under 35 U.S.C. § 101 and entered a new ground of rejection as to the remaining claims also under 35 U.S.C. § 101. The panel did not reach the Examiner's rejections under 35 U.S.C. § 102(e) and 103.
6) On June 6, 2011, Petitioner filed a Request For Rehearing.
7) On July 27, 2011, a Decision On Request For Rehearing was mailed to Petitioner. The panel denied the request to make any substantive change to the Decision On Appeal.
8) On September 23, 2011, a Supplemental Decision Following Decision On Request For Rehearing was mailed to Petitioner. The panel maintained the rejection of all claims under 35 U.S.C. § 101, but decided to review the prior art rejections, and reversed the Examiner's decision to reject claims under 35 U.S.C. § 102(e) and 103.

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DISCUSSION

As indicated in the Supplemental Decision Following Decision On Request For Rehearing, the Board has now reviewed all of the Examiner's statutory bases for rejecting the claims.

DECISION

For the reasons set forth above, the Petition is DISMISSED as moot.

James Donald Smith
Chief Administrative Patent Judge

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,658,745	:	
Issue Date: February 9, 2010	:	
Application No. 10/960,204	:	NOTICE
Filed: October 7, 2004	:	
Attorney Docket No. 7690-83561-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

As indicated above, the submission filed December 23, 2010, does not include a proper itemization. In this regard, the basic filing fee should be further itemized to include the basic filing, search and examination fees. Further, please review the current fees from the US Patent and Trademark Office website at www.uspto.gov.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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MAY 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,658,745	:	
Issue Date: February 9, 2010	:	
Application No. 10/960,204	:	NOTICE
Filed: October 7, 2004	:	
Attorney Docket No. 7690-83561-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,224,925 B2

DATED : May 29, 2007

INVENTOR(S) : Masaaki Sato, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 2
Line 14, "had" should read --has--.

COLUMN 5
Line 66, "slits 22a" should read slit 22a--.

COLUMN 6
Line 10, "positioned," should read --positioned.--.
Line 11, "in other words," should read --In other words,--.
Line 12, "Each claw 23 is provided with a slanted portion" should be deleted.
Line 13, "23a" should be deleted.
Line 15, "portions" should read --portion-- and "23a" should be deleted.
~~Line 31, "while deforming in the pattern of" should ???~~
Line 62, "edge" should read --The edge--.

COLUMN 8
Line 40, "directly" should be deleted.

COLUMN 10
Line 43, "(22a)" should read --22a--.
Line 58, "(22e)," should read --22e--.

COLUMN 12
Line 3, "Lout" should read L_{out}.
Line 44, "lens, 30" should read --lens 30--.

ENTER IN PART: /L.K.R./

COLUMN 13

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,224,925 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)

1662323v1

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,224,925 B2

DATED : May 29, 2007

INVENTOR(S) : Masaaki Sato, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Line 18, "(25)," should read --25,--.
Line 22, "(21)." should read --21.--.
Line 24, "(21)," should read --21,--.

COLUMN 14
Line 20, "the thickness" should read --move in the thickness--.
Line 39, "edge, of" should read --edge of--.
Line 61, "improve" should read --improves--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,224,925 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)

1662323v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Jan. 13, 2008

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/960249 -7224925

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

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 change to column 6, line 31, which reads: "while deforming in the pattern of" should ??? has not been entered. All other corrections have been approved.

/David M. Gray/ 2852

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,365	10/06/2004	Robert P. Morris	1254/US	4451

49278 7590 01/17/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
CHRISTENSEN, SCOTT B

ART UNIT	PAPER NUMBER
2444	

MAIL DATE	DELIVERY MODE
01/17/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Best Available Copy

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,365	10/06/2004	Robert P. Morris	1254/US	4451

49278 7590 01/17/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
CHRISTENSEN, SCOTT B

ART UNIT	PAPER NUMBER
2444	

DATE MAILED: 01/17/2012

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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Scenera Research, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

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JAN 17 2012

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of:
Morris
Appl. No.: 10/960,365
Filed: October 6, 2004
For: **SYSTEM AND METHOD FOR UTILIZING CONTACT INFORMATION, PRESENCE INFORMATION AND DEVICE ACTIVITY**

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on September 12, 2011. This is the fifth petition for suspension.

The petition is **GRANTED**.

Pursuant to applicant's request filed on September 12, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from the mailing of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Christopher Grant whose telephone number is (571) 272-7294.

/Christopher Grant/
Christopher Grant, WQAS
Technology Center 2400

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,414	10/06/2004	Lance D. Miller	38271-76067	7921

7590 05/31/2011
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

EXAMINER
DEJONG, ERIC S

ART UNIT	PAPER NUMBER
1631	

NOTIFICATION DATE	DELIVERY MODE
05/31/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 31, 2011

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of	:	
Lance D. Miller et al.	:	**DECISION ON PETITION**
Application No. 10960414	:	
Filed: 10/6/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 38271-76067	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) October 6, 2004.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Miller, et al.	:	
Application No. 10/960,414	:	ON REQUEST FOR
Filed: October 6, 2004	:	RECONSIDERATION OF
Attorney Docket Number:38271-76067	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), July 1, 2011. Applicants believe that the PTA should be accorded an additional six hundred twenty-nine (629)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, 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 **two hundred six (206) 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

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BARNES & THORNBURG LLP
SUITE 1150
3343 PEACHTREE ROAD, N.E.
ATLANTA GA 30326-1428

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert **RIKER** et al.	:	
Application No. 10/960,424	:	DECISION ON PETITION
Filed: October 07, 2004	:	TO WITHDRAW
Attorney Docket No. **50872-110856**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 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.

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.

Therefore, as there is currently no statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request for Withdrawal.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **O'NEAL MISTRY, ESQ.**
BEST MEDICAL INTERNATIONAL, INC.
7643 FULLERTON ROAD
SPRINGFIELD, VA 22153

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sughrue Mion/IMMUNOGEN
2100 Pennsylvania Avenue, N. W.
Washington DC 20037

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DEC 06 2011

OFFICE OF PETITIONS

In re Application
Steeves, et al.
Application No. 10/960,602
Filing or 371(c) Date: October 8, 2004
Dkt. No.: A8662

: PATENT TERM ADJUSTMENT

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed October 24, 2011.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 100 days, not 168 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed July 25, 2011. Applicants assert that the application was improperly reduced 19 days and 18 days in connection with Information Disclosure Statements filed September 21, 2009 and July 13, 2010. Applicants further assert that the application is subject for an additional reduction of 60 days in connection with the Information Disclosure Statement filed August 20, 2007. Applicants further assert that the application was improperly accorded an additional adjustment of 82 days in connection with the mailing of the Notice of Allowance on July 25, 2011.

The arguments presented have been carefully reviewed and found in part convincing. A thorough review of the record reveals that at the time of allowance, the application was entitled to an overall patent term adjustment of 65 days.

As uncontested by applicants, the application was properly accorded an adjustment of 460 days under 37 CFR 1.702(a)(1). See, also, 37 CFR 1.703(a)(1).

The application is subject to a reduction of 98 days in connection with the reply correcting an omission that was filed August 20, 2007. In accordance with 37 CFR 1.704(c)(7), the reduction commenced May 15, 2007, the day after the date that the reply containing the omission was filed, and ended August 20, 2007, the date that the reply correcting the omission was filed. As the reduction of 38 days accorded in connection with the submission of an Information Disclosure Statement on June 21, 2007 overlaps with the reduction of 98 days, the 38 day reduction has been removed.

The reductions of 60 days, 59 days, and 88 days under 37 CFR 1.704(b) in connection with replies filed April 16, 2008, December 22, 2008, and September 2, 2009 are not contested.

In view of timely filed statements satisfying 37 CFR 1.704(d), the reductions of 19 days and 18 days in connection with Information Disclosure Statements filed September 21, 2009, July 15, 2010 and July 30, 2010 have been removed.

Further, the reduction of 55 days in connection with the reply filed January 4, 2011 in response to the final Office action mailed August 10, 2010 was made in error. The reply filed January 4, 2011 did not satisfy 37 CFR 1.113 in that it was not a notice of appeal, an amendment placing the application in condition for allowance, or an amendment satisfying the requirements of 37 CFR 1.114. Accordingly, the reply filed January 4, 2011 is not deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(b).

The Notice of Appeal filed February 10, 2011 was a proper reply to the final Office action mailed August 10, 2010. Thus, the proper reduction in accordance with 37 CFR 1.704(b) is 90 days, the reduction having commenced November 11, 2010, the day after the date that is three months after the date that the final Office action was mailed, and ended February 10, 2011, the date that the Notice of Appeal was filed.

As the reply filed January 4, 2011 was not a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(b), the information disclosure statement filed February 2011 is not seemed a supplemental reply within the meaning of 37 CFR 1.704(c)(8). Accordingly, the reduction has been removed.

Applicants properly assert that the application is not entitled to an adjustment of 82 days in connection with the mailing of the Notice of Allowance on July 25, 2011. As the Notice of Allowance was timely mailed within four months of the mailing of the reply filed July 6, 2011, no further adjustment is appropriate.

In view thereof, at the time of allowance, the application was entitled to an overall adjustment of 65 days (460 days under 37 CFR 1.702 less 395 days under 37 CFR 1.704).

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure

Patent Term Adjustments

Best Available Copy

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10960602 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10960602

Application Filing Date	10/08/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	542
A Delays	542	PTO Manual Adjustment	-103
B Delays	0	Applicant Delay (APPL)	374
C Delays	0	Total PTA (days)	65

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
166	12/05/2011		P028	Adjustment of PTA Calculation by PTO		90	0
165	12/05/2011		P028	Adjustment of PTA Calculation by PTO	55		0
164	12/05/2011		P028	Adjustment of PTA Calculation by PTO	37		0
163	12/05/2011		P028	Adjustment of PTA Calculation by PTO		98	0
162	12/05/2011		P028	Adjustment of PTA Calculation by PTO	38		0
161	12/05/2011		P028	Adjustment of PTA Calculation by PTO	19		0
160	12/05/2011		P028	Adjustment of PTA Calculation by PTO	18		0
159	12/05/2011		P028	Adjustment of PTA Calculation by PTO		82	0
143	07/25/2011	05/04/2011	MN/=.	Mail Notice of Allowance	82		98
142	07/19/2011		OAR	Office Action Review			0
141	07/19/2011		OAR	Office Action Review			0
140	07/19/2011		DVER	Document Verification			0
139	07/19/2011		IREV	Issue Revision Completed			0
138	07/19/2011		N/=.	Notice of Allowance Data Verification Completed			0
137	07/19/2011		DOCK	Case Docketed to Examiner in GAU			0
136	07/14/2011		EX.A	Examiner's Amendment Communication			0
135	07/14/2011		CNTA	Allowability Notice			0
133	07/11/2011		FWDX	Date Forwarded to Examiner			0
132	07/06/2011		AP/A	Amendment/Argument after Notice of Appeal			0
131	07/06/2011		XT/G	Request for Extension of Time - Granted			0
130	06/21/2011		RU47	Rule 47 / 48 Correction of Inventorship Papers Filed			0
129	06/21/2011		EML_NTR	Email Notification			0
128	06/21/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
127	06/16/2011		OAR	Office Action Review			0
126	06/16/2011		CTAV	Advisory Action (PTOL-303)			0
120	06/15/2011		FWDX	Date Forwarded to Examiner			0
121	06/02/2011		C602	Oath or Declaration Filed (Including Supplemental)			0
119	06/02/2011		AP/A	Amendment/Argument after Notice of Appeal			0
118	06/02/2011		XT/G	Request for Extension of Time - Granted			0
122	05/06/2011		IDSC	Information Disclosure Statement considered			0
116	05/06/2011		M844	Information Disclosure Statement (IDS) Filed			0
115	05/06/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
123	02/17/2011		IDSC	Information Disclosure Statement considered			0
113	02/17/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
112	02/17/2011		M844	Information Disclosure Statement (IDS) Filed			0
124	02/10/2011		IDSC	Information Disclosure Statement considered			0
114	02/10/2011		N/AP	Notice of Appeal Filed			0
108	02/10/2011		XT/G	Request for Extension of Time - Granted			0
107	02/10/2011	01/04/2011	M844	Information Disclosure Statement (IDS) Filed		37	98
106	02/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
105	01/13/2011		EML_NTR	Email Notification			0
104	01/13/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
103	01/10/2011		CTAV	Advisory Action (PTOL-303)			0
101	01/06/2011		INHY	case Inherited			0
100	01/06/2011		DOCK	Case Docketed to Examiner in GAU			0
99	01/06/2011		FWDX	Date Forwarded to Examiner			0
98	01/04/2011	11/10/2010	A.NE	Amendment after Final Rejection		55	94
97	01/04/2011		XT/G	Request for Extension of Time - Granted			0
96	08/12/2010		INHY	case Inherited			0
95	08/12/2010		DOCK	Case Docketed to Examiner in GAU			0
94	08/10/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
93	08/10/2010		CTFR	Final Rejection			0
92	07/30/2010		IDSC	Information Disclosure Statement considered			0
90	07/30/2010	07/12/2010	M844	Information Disclosure Statement (IDS) Filed		18	83
89	07/30/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
91	07/15/2010		IDSC	Information Disclosure Statement considered			0
88	07/15/2010		RCAP	Reference capture on IDS			0
87	07/15/2010		M844	Information Disclosure Statement (IDS) Filed			0
86	07/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
84	07/14/2010		FWDX	Date Forwarded to Examiner			0
85	07/12/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
83	07/12/2010		A.NE	Amendment after Final Rejection			0
82	07/02/2010		C.ADB	Correspondence Address Change			0
81	05/28/2010		ELC_RVW	Electronic Review			0
80	05/28/2010		EML_NTF	Email Notification			0
79	05/28/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
78	05/24/2010		CTFR	Final Rejection			0
76	03/23/2010		FWDX	Date Forwarded to Examiner			0
77	02/25/2010		IDSC	Information Disclosure Statement considered			0
75	02/25/2010		A	Response after Non-Final Action			0

73	02/25/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
72	02/25/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
71	02/25/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
70	02/25/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
69	02/25/2010		M844	Information Disclosure Statement (IDS) Filed			0
68	02/25/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
67	11/25/2009		ELC_RVW	Electronic Review			0
66	11/25/2009		EML_NTF	Email Notification			0
65	11/25/2009		MCTNF	Mail Non-Final Rejection			0
64	11/23/2009		CTNF	Non-Final Rejection			0
63	09/21/2009		IDSC	Information Disclosure Statement considered			0
62	09/21/2009	09/02/2009	M844	Information Disclosure Statement (IDS) Filed		19	58
61	09/21/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
59	09/18/2009		FWDX	Date Forwarded to Examiner			0
60	09/02/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
58	09/02/2009	06/06/2009	A...	Response after Non-Final Action		88	56
57	09/02/2009		XT/G	Request for Extension of Time - Granted			0
56	03/06/2009		MCTNF	Mail Non-Final Rejection			0
55	03/02/2009		CTNF	Non-Final Rejection			0
54	01/12/2009		FWDX	Date Forwarded to Examiner			0
53	12/22/2008	10/24/2008	A...	Response after Non-Final Action		59	51
52	12/22/2008		XT/G	Request for Extension of Time - Granted			0
51	07/24/2008		MCTNF	Mail Non-Final Rejection			0
50	07/21/2008		CTNF	Non-Final Rejection			0
48	05/06/2008		FWDX	Date Forwarded to Examiner			0
49	04/16/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
47	04/16/2008	02/16/2008	A...	Response after Non-Final Action		60	45
46	04/16/2008		XT/G	Request for Extension of Time - Granted			0
45	11/16/2007		MCTNF	Mail Non-Final Rejection			0
44	11/13/2007		CTNF	Non-Final Rejection			0
38	08/29/2007		FWDX	Date Forwarded to Examiner			0
37	08/20/2007		A...	Response after Non-Final Action			0
36	08/06/2007		MCTMS	Mail Miscellaneous Communication to Applicant			0
35	08/03/2007		CTMS	Miscellaneous Action with SSP			0
43	06/21/2007		IDSC	Information Disclosure Statement considered			0
32	06/21/2007		RCAP	Reference capture on IDS			0
31	06/21/2007	05/14/2007	M844	Information Disclosure Statement (IDS) Filed		38	24
30	06/21/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
25	05/23/2007		FWDX	Date Forwarded to Examiner			0
42	05/14/2007		IDSC	Information Disclosure Statement considered			0
28	05/14/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
27	05/14/2007		RCAP	Reference capture on IDS			0
26	05/14/2007		M844	Information Disclosure Statement (IDS) Filed			0
24	05/14/2007		ELC.	Response to Election / Restriction Filed			0
23	05/14/2007		XT/G	Request for Extension of Time - Granted			0
22	03/13/2007	12/08/2005	MCTRS	Mail Restriction Requirement	460		0.5
21	03/05/2007		CTRS	Restriction/Election Requirement			0
20	07/10/2006		C.ADB	Correspondence Address Change			0
19	05/05/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	05/05/2005		DOCK	Case Docketed to Examiner in GAU			0
13	04/27/2005		WROIPE	Application Return from OIPE			0
12	04/27/2005		COMP	Application Is Now Complete			0
17	04/14/2005		A.PE	Preliminary Amendment			0
11	04/14/2005		ADDFLFEE	Additional Application Filing Fees			0
10	04/14/2005		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
9	02/14/2005		CPAP	Corrected Paper			0
8	02/14/2005		ROIPE	Application Return TO OIPE			0
7	02/14/2005		OIPE	Application Dispatched from OIPE			0
6	02/14/2005		COMP	Application Is Now Complete			0
5	02/09/2005		L128	Cleared by L&R (LARS)			0
4	01/04/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	01/04/2005		CLSS	CASE CLASSIFIED BY OIPE			0
2	01/04/2005		SCAN	IFW Scan & PACR Auto Security Review			0
41	10/08/2004		IDSC	Information Disclosure Statement considered			0
18	10/08/2004		RCAP	Reference capture on IDS			0
16.7	10/08/2004		M844	Information Disclosure Statement (IDS) Filed			0
16	10/08/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
15	10/08/2004		A.PE	Preliminary Amendment			0
1	10/08/2004		IEXX	Initial Exam Team nn			0
0.5	10/08/2004		EFILE	Filing date			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120410-A

DATE : March 27, 2012

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction on Patent No.: 8,088,387

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/MISOOK YU/
Supervisory Patent Examiner.Art Unit 1642

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CHICAGO, IL 60606

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SEP 13 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Andrew Clive ROBERTS et al
Application No. 10/960,643
Filed: October 7, 2004
Attorney Docket No. 0808.71748

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 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 June 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination 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) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)-272-0602.

This application is being referred to Technology Center AU 2427 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

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ONE MARITIME PLAZA-FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Yi Luo et al.	:	
Application No. 10/960,657	:	ON PETITION
Filed: October 7, 2004	:	
Attorney Docket No. 75132	:	

This is a decision on the petition filed December 27, 2010 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of February 1, 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 November 26, 2009. A Notice of Abandonment was mailed on May 1, 2008. A Notice of Abandonment was mailed on October 25, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As to item 1, the amendment filed on December 27, 2010, 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.

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)	
	10/960,657	LUO ET AL.	
	Examiner	Art Unit	
	Edwin C. Holloway, III	2612	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 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 _____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: _____.
   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: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/Edwin C. Holloway, III/
Primary Examiner, Art Unit 2612

Continuation of 13. Other: The proposed amendments will NOT be entered because they raise new issues requiring further consideration and search. The proposed amendment to claim 13 adds limitations from claim 15, but limitations of intervening claim 14 were not added. This changes the scope of the claims. Applicant should have added all the limitations of both claims 14 and 15 to claim 13 and canceled both claims 14 and 15. The amendment to claims 1 and 4 would be entered if accompanied by the cancellation of claims 2-3 and 13-20 .

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720 WATER STREET
TOLEDO OH 43604

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of :
Yi Luo et al. :
Application No. 10/960,657 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 75132 :

This is a decision on the renewed petition filed April 1, 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 Examiner's Answer mailed, November 26, 2008, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 27, 2009. A Notice of Abandonment was mailed on October 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received April 1, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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ATTN: JOHN W. WALLEN, III
AMBRX, INC.
10975 NORTH TORREY PINES ROAD
SUITE 100
LA JOLLA CA 92037

MAILED

FEB 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,230,068	:	
Issued: June 12, 2007	:	
Application No. 10/960,674	:	ON PETITION
Filed: October 7, 2004	:	
Attorney Docket No. AMBX-0022.00US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 17, 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.

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
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MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston, MA 02110

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Endege et al.	:	DECISION ON APPLICATION
Application No. 10/961,139	:	FOR PATENT TERM ADJUSTMENT
Filed: October 7, 2004	:	
Attorney Docket No. 117742-06501	:	

This is in response to the "Application for Patent Term Adjustment Including Request for Reconsideration Under 37 C.F.R. § 1.705(B)" filed March 8, 2010. Applicants request the initial determination of patent term adjustment be corrected from one hundred two (102) days to six hundred seventy-four (674) days.

The request for reconsideration of the initial determination of patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 166 days. A copy of the updated PALM screen showing the correct determination is enclosed.

On December 16, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 102 days. In response, applicants timely filed this application for patent term adjustment with payment of the issue fee on March 8, 2010.

Applicants assert the Office improperly entered a 64-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) as a result of the Supplemental Amendment filed November 24, 2009. Applicants also assert the patent term adjustment should include a 508-day increase for delay under 35 U.S.C. § 154(b)(1)(B) ("B delay").

<u>The 64-Day Reduction Under 37 C.F.R. § 1.704(c)(8)</u>

The examiner mailed a non-final Office action on May 20, 2009. A reply to the amendment was filed September 21, 2009.

The examiner conducted a telephonic interview with one of Applicants' representatives on November 23, 2009. The file record does not include an interview summary prepared by the examiner discussing the interview.

Applicants filed a Supplemental Amendment on November 24, 2009. The first page of the amendment states, with emphasis added,

> This communication is responsive to the *express request from Examiner Yao* during a telephonic interview on November 23, 2009 to amend the claims in order to place the application in condition for allowance.

A Notice of Allowance and an Examiner's Amendment were mailed December 16, 2009. Neither the Notice of Allowance nor the accompanying Examiner's Amendment includes any language inconsistent with a conclusion the Supplemental Amendment was expressly requested by the examiner.

The Office entered a 64-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) as a result of Applicants filing the Supplemental Amendment.

Per 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include, with emphasis added,

> 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.

Applicants assert a 64-day reduction in patent term adjustment is improper because the Supplemental Amendment was expressly requested by the examiner.

The specific evidence of record in this case is sufficient to establish the examiner expressly requested the Supplemental Amendment. Therefore, entry of the 64-day reduction in patent term adjustment was improper.

Based on the prior discussion, the Office has removed the 64-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

<u>B Delay</u>

To the extent Applicants request an increase in patent term adjustment for B Delay, 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 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. 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).

Conclusion

The Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) mailed with the Notice of Allowance advised Applicants of a patent term adjustment to date of 102 days. The calculation of 102 days included a 64-day reduction under 37 C.F.R. § 1.704(c)(8). In view of the prior discussion, the 64-day reduction was improper and the patent term adjustment as of the mailing date of the Notice of Allowance is 166 days, not 102 days.

The required $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-4876.

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

[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.

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.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Saturday
Date: 8/14/2010

PALM INTRANET

Time: 12:00:29

PTA Calculations for Application: 10/961139			
Application Filing Date:	10/07/2004	PTO Delay (PTO):	484
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	382
Post-Issue Petitions:	0	Total PTA (days):	166
PTO Delay Adjustment:	64		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	08/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	64		
86	12/16/2009	MAIL NOTICE OF ALLOWANCE			
85	12/15/2009	ISSUE REVISION COMPLETED			
84	12/15/2009	DOCUMENT VERIFICATION			
83	12/15/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	12/15/2009	CASE DOCKETED TO EXAMINER IN GAU			
81	12/10/2009	EXAMINER'S AMENDMENT COMMUNICATION			
80	12/10/2009	NOTICE OF ALLOWABILITY			
79	12/01/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	12/01/2009	DATE FORWARDED TO EXAMINER			
75	11/24/2009	SUPPLEMENTAL RESPONSE		64	73
74	11/02/2009	DATE FORWARDED TO EXAMINER			
73	09/21/2009	RESPONSE AFTER NON-FINAL ACTION		32	67
72	09/21/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
71	09/28/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
70	09/23/2009	CORRESPONDENCE ADDRESS CHANGE			
69	09/23/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
68	09/17/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	05/20/2009	MAIL NON-FINAL REJECTION			
66	05/19/2009	NON-FINAL REJECTION			
60	03/11/2009	DATE FORWARDED TO EXAMINER			
		AMENDMENT SUBMITTED/ENTERED WITH			

59	02/27/2009	FILING OF CPA/RCE			
58	03/11/2009	DATE FORWARDED TO EXAMINER			
57	02/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	47
56	03/11/2009	DISPOSAL FOR A RCE / CPA / R129			
55	02/27/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	02/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
53	01/27/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
52	01/22/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
51	11/18/2008	MAIL ADVISORY ACTION (PTOL - 303)			
50	11/18/2008	ADVISORY ACTION (PTOL-303)			
49	11/07/2008	DATE FORWARDED TO EXAMINER			
48	10/27/2008	AMENDMENT AFTER FINAL REJECTION			
47	08/28/2008	MAIL FINAL REJECTION (PTOL - 326)			
46	08/27/2008	FINAL REJECTION			
45	02/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	06/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	06/10/2008	REFERENCE CAPTURE ON IDS			
42	06/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1	39
41	06/09/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
40	06/26/2008	DATE FORWARDED TO EXAMINER			
39	06/09/2008	RESPONSE AFTER NON-FINAL ACTION		61	32
38	06/09/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	06/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	02/20/2008	REFERENCE CAPTURE ON IDS			
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34	02/20/2008	MISCELLANEOUS INCOMING LETTER			
33	02/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	01/09/2008	MAIL NON-FINAL REJECTION			

31	01/04/2008	NON-FINAL REJECTION			
30	10/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	11/01/2007	CASE DOCKETED TO EXAMINER IN GAU			
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26	10/19/2007	SUPPLEMENTAL RESPONSE		14	24
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24	10/05/2007	RESPONSE TO ELECTION / RESTRICTION FILED		92	19
23	10/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	10/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
19	04/05/2007	MAIL RESTRICTION REQUIREMENT	484		-1
18	04/02/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
17	03/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	08/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	04/07/2005	APPLICATION RETURN FROM OIPE			
14	04/08/2005	APPLICATION IS NOW COMPLETE			
13	04/07/2005	APPLICATION RETURN TO OIPE			
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10	03/22/2005	ADDITIONAL APPLICATION FILING FEES		27	7
9	03/22/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	03/22/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	11/23/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	11/12/2004	CLEARED BY OIPE CSR			
5	11/12/2004	CASE CLASSIFIED BY OIPE			
4	10/30/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	10/26/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	10/07/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM /			

		GROUP / PCT			
1	10/07/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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)
6,996,336	2006-02-07	10/961,174	2004-10-08	24552US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

● The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/John Mahoney/	Date (YYYY-MM-DD)	2011-09-18
Name	John Mahoney		
Enter Reel and Frame Number		Remove	
Reel Number	015417	Frame Number	0360
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6996336
Issue Date: February 7,2006
Application No. 10961174
Filed: October 8,2004
Attorney Docket No. 554317.00015

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOLLAND & KNIGHT LLP
ATTN: STEFAN STEIN/IP DEPT.
131 S. DEARBORN STREET
30TH FLOOR
CHICAGO IL 60603

MAILED

DEC 28 2011

OFFICE OF PETITIONS

In re Patent No. 6,996,336	:	
Issue Date: February 7, 2006	:	
Application No. 10/961,174	:	DECISION ON REQUEST FOR REFUND
Filed: October 8, 2004	:	
Attorney Docket No. 554317.00015	:	

This is a decision on the Request For Refund filed October 17, 2011 and resubmitted on December 9, 2011. This is also a decision on the petition filed September 22, 2011, under 37 CFR 1.378(c).

The request for refund is **GRANTED**.

The petition under 37 CFR 1.378(c) is DISMISSED as Moot.

Applicant files the above request for refund and states that "An erroneous submission of a petition fee was paid on September 22, 2011, by mistake, in attempting to pay a petition fee with a maintenance fee issue. A correct petition fee was subsequently paid together with the maintenance fee."

A review of Office finance records for the above-identified application indicates the above. Therefore, the petition fee of $1,410.00 submitted on September 22, 2011, is being credited to deposit account no. 13-0017 as authorized.

As to the petition under 37 CFR 1.378(c):

The petition under 37 CFR 1.378(c) submitted on September 22, 2011, is dismissed as moot in view of the above.

There is no indication that the person signing the request was ever given a power of attorney in the above application. If the person signing the request desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the request, all

future correspondence will be directed to the address currently of record until appropriate instructions are received.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

KIRK A. VANDER LEEST
MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET, STE. 3400
CHICAGO, ILLINOIS 60661

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Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re David McDonald Stirling et al. :
Application No.: 10/961,284 : **DECISION**
Filed: October 8, 2004 : **DISMISSING**
Patent No.: 7,930,905 : **PETITION**
Issued: April 26, 2011 :

This is a decision on the June 23, 2011 petition titled "Petition To Replace Drawings and Reprint Patent Under 37 CFR 1.182," which requests the reprinting of U.S. Patent No. 7,930,905 ("the '905 patent") with corrected drawings ("the June 23, 2011 petition").

A petition fee under 37 CFR 1.17(f) of $400.00 has been charged to Deposit Account No. 16-0605, pursuant to the authorization at page 2 of the June 23, 2011 petition.

The June 23, 2011 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The June 23, 2011 petition is **dismissed**.

At page 1 of the June 23, 2011 petition, patent owner explains that the '905 patent was issued with the informal drawings that accompanied the original filing of the 10/961,284 application ("the '284 application"). According to the patent owner, the '284 application "was submitted with informal drawings with the expectation that the Examiner would object to the informal drawings and would request the submission of replacement drawings." Patent owner believes that the examiner "should have objected to the drawings as filed because the drawings do not comply with the standards for drawings as outlined in 37 CFR 1.84(l), *e.g.*, "the lines of Figure 5 and Figure 6 are not 'clean' or 'uniformly thick and well-defined' as required by 37 CFR 1.84(l)". Patent owner therefore requests the Office to correct the '905 patent by reprinting the '905 patent with the formal drawings filed together with the June 23, 2011 petition.

35 U.S.C. 254 is titled "Certificate of correction ***of Patent and Trademark Office mistake***" (emphasis added) and is the sole provider of statutory authority for the

Office to issue a corrected patent.[1] Notably, 35 U.S.C. 255, which is titled "Certificate of correction ***of applicant's mistake***" (emphasis added), does not mention a corrected patent.

37 CFR 1.322(b) is the regulation implementing 35 U.S.C. 254; it provides:

> If the nature of the ***mistake on the part of the Office*** is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee. [Emphasis added.]

Thus, issuance of a corrected patent under 35 U.S.C. 254 and 37 CFR 1.322(b) is reserved for those instances in which the mistake to be corrected in the patent is a mistake on the part of the Office. The Office has no statutory authority to issue a corrected patent for a mistake in a patent that was not a mistake on the part of the Office. For the reasons below, it was not a mistake on the part of the Office for the '905 patent to issue with the October 8, 2004 drawings.

The '284 application was filed October 8, 2004, and issued as the '905 patent on April 26, 2011. Prior to the filing of the '284 application, the Office published a notice in the January 16, 2001 issue of the *Official Gazette* advising the public of revised patent drawing procedures.[2] The January 16, 2001 notice states that, under the revised procedures, "most drawings will be considered acceptable (even if they are designated by applicant as 'informal')." The January 16, 2001 notice also states that "in most situations, patent application publications and patents will reflect the quality of the drawings that are included with a patent application on filing unless applicant voluntarily submits better quality drawings." The foregoing statements from the January 16, 2001 notice are essentially reproduced in MPEP 507, as of the Eighth Edition (August 2001).

In addition, MPEP 608.02(b)(I) was revised in May 2004 (Eighth Edition, Rev. 2), i.e., approximately five months prior to the filing of the '284 application, to provide, in pertinent part:

> The Office no longer considers drawings as formal or informal. Drawings are either acceptable or not acceptable. Drawings will be accepted by the Office of Patent Application Processing (OPAP) if the drawings are readable and reproducible for publication purposes. See MPEP § 507.

In the present instance, the '905 patent was issued with the only drawings of record at the time of issuance, i.e., the drawings included with the '284 application on its

---

[1] The last line of 35 U.S.C 254 states that "[t]he Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction."

[2] *See*: 1242 OG 114 (January 16, 2001).

October 8, 2004 filing date. Consistent with the revision of patent drawing procedures in 2001, the Office did not object to the October 8, 2004 drawings and require corrected drawings. Indeed, an Office action issued July 24, 2006, for the '284 application indicates in the Office Action Summary that the drawings filed on October 8, 2004, are accepted by the examiner. For the foregoing reasons, issuance of the '905 patent with the October 8, 2004 drawings was in accordance with proper Office procedure.

Accordingly, it was not a mistake on the part of the Office for the '905 patent to issue with the October 8, 2004 drawings. Therefore, the June 23, 2011 petition requesting reprinting of the '905 patent with corrected drawings is **dismissed**.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Brian E. Hanlon

Brian E. Hanlon
Director
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-14-11

TO SPE OF : ART UNIT 1741

SUBJECT : Request for Certificate of Correction for Appl. No.: 10961284 Patent No.: 7930905

CofC mailroom date: 12-5-11

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**.

Omega Lewis

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Matthew J. Daniels — 1741

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

DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON, TX 77054

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Application of :
Donny Kevin KIRTLEY, et *al.* :
Application No. 10/961,328 :
Filed: October 8, 2004 :
Attorney Docket No. **DMJ2004918** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 30, 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 December 31, 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) above, the required statement.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Patent 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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DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON, TX 77054

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of :
Donny K. KIRTLEY, et *al.* :
Application No. 10/961,328 : DECISION ON PETITION
Filed: October 8, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **DMJ2004918** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 19, 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, September 30, 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 December 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment with terminal disclaimer and fee, (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 2629 for appropriate action by the Examiner in the normal course of business on the reply received May 26, 2009.

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

MAILED
JUN 27 2011
OFFICE OF PETITIONS

In re Application of :
Conti et al. :
Application No. 10/961,344 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. TI-37338 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 5, 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 November 6, 2010. A Notice of Abandonment was mailed February 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 , and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 2432 for appropriate action by the Examiner in the normal course of business on the reply received June 10, 2011.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EPSTEIN & GERKEN
1901 RESEARCH BOULEVARD
SUITE 340
ROCKVILLE, MD 20850

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of
Dennis M. Kay, et al.
Application No. 10/961,396
Filed: October 12, 2004
Attorney Docket No. 0245.100.US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 26, 2010. Accordingly, the date of abandonment of this application is November 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning 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

DO NOT ENTER: /C.M./

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,946,994

APPLICATION NO.: 10/961,460

ISSUE DATE : May 24, 2011

INVENTOR(S) : Simon E. Finburgh, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Drawings

Please replace the drawings contained in the Patent Grant with the attached twenty one (21) sheets of formal drawings.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Gazdzinski & Associates, PC
16644 W. Bernardo Dr., Suite 201
San Diego, CA 92127

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110822

DATE : July 06, 2001

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,946,994

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

The Certificate of Correction requests that the drawings contained in the Patent Crant be replaced with "the attached twenty one (21) sheets of formal drawings." However, thirty-two (32) sheets of formal drawings are attached to the filing. Therefore, it is unclear which of the 32 drawings submitted are to be replaced.

/CHARLES A MARMOR II/
Supervisory Patent Examiner.Art Unit 3735

UNITED STATES 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 : Sept. 29, 2011

Patent No. : 7,946,994 B2
Patent Issued : May 24, 2011
Docket No. : TENSYS.031A
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s)1.322 .

The alleged error(s) The Certificate of Correction requests that the drawings contained in the Patent Grant be replaced with "the attached twenty one sheets of formal drawings." However, thirty-two sheets of formal drawings are attached to the filing. Therefore, it is unclear which of the 32 drawings submitted are to be replaced . the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(571) 272-3435

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

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.
10/961,478	10/12/2004	Hye Yun Kim	1793.1477	5071

21171 7590 08/17/2010
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
YENKE, BRIAN P

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
08/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
Washington, D.C. 20005

MAIL

AUG 17 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Kim, Hye Yun *et al.*
Serial No.: 10/961,478
Filed: October 12, 2004
For: **APPARATUS AND METHOD FOR CONVERTING INTERLACED IMAGE INTO PROGRESSIVE IMAGE**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed October 12, 2004 and June 22, 2010, requesting the acceptance of color drawings.

The petition requests that the color drawings identified in Figures 9A – 9C and 10A – 10C, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 17 2010

OFFICE OF PETITIONS

ENTELOS, INC.
c/o Law Offices of Karen E. Flick
P.O. Box 515
El Granada CA 94018-0515

In re Application of Bangs et al.	:	
Application No. 10/961,523	:	Decision on Petitions Under
Filing Date: October 7, 2004	:	37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. ENTL-016.US1	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) The reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) The surcharge set forth in § 1.17(t); and

(3) A statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

The application is being forwarded to Technology Center Art Unit 1631 for consideration by the examiner of the claim of priority under 35 U.S.C. § 120 to the prior-filed application and the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications.

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
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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
10/961,523	10/07/2004	1631	1335	ENTL-016.US1	47	4

CONFIRMATION NO. 5592

CORRECTED FILING RECEIPT

55388
ENTELOS, INC.
c/o Law Offices of Karen E. Flick
P.O. Box 515
El Granada, CA 94018-0515

OC000000043558068

Date Mailed: 09/16/2010

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)

Alex L. Bangs, Foster City, CA;
Kevin Lee Bowling, Watsonville, CA;
Thomas S. Paterson, San Francisco, CA;

Assignment For Published Patent Application

Entelos, Inc., Foster City, CA

Power of Attorney: The patent practitioners associated with Customer Number 55388

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/509,682 10/07/2003
and is a CIP of 10/151,581 05/16/2002 ABN
which claims benefit of 60/292,175 05/17/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/961,523**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Simulating patient-specific outcomes

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAILED
SEP 28 2011
OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of	:	
Shah et al.	:	
Application No. 10/961,562	:	DECISION ON APPLICATION
Filed: 10/08/2004	:	FOR
Docket No. MCP5037USNP	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b) filed September 22, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred eleven (511) days to five hundred fourteen (514) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred fourteen (514) days. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the Notice of Allowance are correct.

In view thereof, the corrected determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred fourteen (514) days.

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e) as authorized. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this 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 REVISED PAIR Screen

10/961,562	ENTERIC COATED ASPIRIN GRANULES COMINGLED WITH BINDER	MCP5037USNP	09-26-2011::15:36:03

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/961,562

Filing or 371(c) Date:	10-08-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	889
A Delays:	889	PTO Manual Adjustments:	3
B Delays:	0	Applicant Delays:	378
C Delays:	0	Total PTA Adjustments:	514

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
98	09-26-2011	Adjustment of PTA Calculation by PTO	3		0
93	09-07-2011	Mail Notice of Allowance			0
92	08-30-2011	Office Action Review			0
91	08-30-2011	Office Action Review			0
90	08-30-2011	Office Action Review			0
89	08-30-2011	Issue Revision Completed			0
88	08-30-2011	Document Verification			0
87	08-30-2011	Notice of Allowance Data Verification Completed			0
81	08-25-2011	Office Action Review			0
80	08-25-2011	Office Action Review			0
79	08-25-2011	Office Action Review			0
78	08-08-2011	Office Action Review			0
77	08-08-2011	Office Action Review			0
76	08-08-2011	Office Action Review			0
75	08-08-2011	Office Action Review			0
74	08-08-2011	Reasons for Allowance			0
73	08-08-2011	Examiner's Amendment Communication			0
72	08-08-2011	Examiner Interview Summary Record (PTOL - 413)			0

71	08-08-2011	Allowability Notice		0
70	08-03-2011	Date Forwarded to Examiner		0
69	08-01-2011	Amendment after Final Rejection		0
68	05-04-2011	Electronic Review		0
67	05-04-2011	Email Notification		0
66	05-04-2011	Mail Final Rejection (PTOL - 326)		0
65	04-28-2011	Office Action Review		0
64	04-25-2011	Office Action Review		0
63	04-25-2011	Final Rejection		0
62	04-07-2011	case Inherited		0
61	04-07-2011	Case Docketed to Examiner in GAU		0
60	03-28-2011	case Inherited		0
59	03-28-2011	Case Docketed to Examiner in GAU		0
58	03-16-2011	Date Forwarded to Examiner		0
57	03-15-2011	Response after Non-Final Action		0
56	12-23-2010	Electronic Review		0
55	12-23-2010	Email Notification		0
54	12-23-2010	Mail Non-Final Rejection		0
53	12-20-2010	Non-Final Rejection		0
52	09-21-2010	Workflow - Request for RCE - Begin		0
51	09-27-2010	Date Forwarded to Examiner		0
50	09-21-2010	RCE- AF Processed		0
49	09-21-2010	Request for Continued Examination (RCE)	28	40
48	09-27-2010	Disposal for a RCE / CPA / R129		0
47	09-09-2010	Email Notification		0

46	09-07-2010	Mail Advisory Action (PTOL - 303)			0
45	09-02-2010	Advisory Action (PTOL-303)			0
44	08-24-2010	Date Forwarded to Examiner			0
43	08-18-2010	Amendment after Final Rejection			0
42	05-24-2010	Electronic Review			0
41	05-24-2010	Email Notification			0
40	05-24-2010	Mail Final Rejection (PTOL - 326)			0
39	05-20-2010	Final Rejection			0
38	03-13-2010	Date Forwarded to Examiner			0
37	02-16-2010	Response after Non-Final Action		3	36
36	11-13-2009	Mail Non-Final Rejection			0
35	11-09-2009	Non-Final Rejection			0
34	08-29-2009	Date Forwarded to Examiner			0
33	07-28-2009	Response after Non-Final Action		204	30
32	06-30-2009	Mail Notice of Informal or Non-Responsive Amendment			0
31	04-25-2009	Date Forwarded to Examiner			0
30.1	01-05-2009	Informal or Non-Responsive Amendment after Examiner Action			0
30	01-05-2009	Response after Non-Final Action		124	26
29	12-08-2008	Mail Notice of Informal or Non-Responsive Amendment			0
28	10-04-2008	Case Docketed to Examiner in GAU			0
27	09-24-2008	Date Forwarded to Examiner			0
26.1	09-03-2008	Informal or Non-Responsive Amendment after Examiner Action			0
26	09-03-2008	Response after Non-Final Action		19	24
25	09-03-2008	Request for Extension of Time - Granted			0
24	05-15-	Mail Non-Final Rejection	889		0.5

	2008		
23	05-12-2008	Non-Final Rejection	0
22	08-17-2006	Information Disclosure Statement considered	0
21	08-17-2006	Information Disclosure Statement considered	0
19	01-08-2008	Case Docketed to Examiner in GAU	0
18.7	08-17-2006	Electronic Information Disclosure Statement	0
18	08-17-2006	Information Disclosure Statement (IDS) Filed	0
17	08-17-2006	Reference capture on IDS	0
16.7	08-17-2006	Information Disclosure Statement (IDS) Filed	0
16	08-17-2006	Information Disclosure Statement (IDS) Filed	0
15	08-17-2006	Miscellaneous Incoming Letter	0
14	07-15-2005	IFW TSS Processing by Tech Center Complete	0
13	07-15-2005	Case Docketed to Examiner in GAU	0
12	03-02-2005	Application Return from OIPE	0
11	03-02-2005	Application Return TO OIPE	0
10	03-02-2005	Application Dispatched from OIPE	0
9	03-02-2005	Application Is Now Complete	0
8	02-16-2005	Additional Application Filing Fees	0
7	02-16-2005	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	01-06-2005	Cleared by L&R (LARS)	0
4	11-12-2004	Referred to Level 2 (LARS) by OIPE CSR	0
3	11-12-2004	CASE CLASSIFIED BY OIPE	0
2	10-30-2004	IFW Scan & PACR Auto Security Review	0
1	10-08-2004	Initial Exam Team nn	0
0.5	10-08-2004	Filing date	0

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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RICHARD L HUFF
19304 OLNEY MILL ROAD
OLNEY MD 20832

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Arjomand
Application No. 10/961,603
Filed: October 12, 2004
Attorney Docket No. ARJO400

REQUEST FOR INFORMATION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

Prior to a decision on the merits, additional information is required. Review of the instant record reveals that the instant application was revived for continuity purposes on June 20, 2008 and abandoned again in favor of U.S. App. No. 11/974,597.

The petition filed July 21, 2008 request revival of the application to establish continuity with a continuation in part application. As the application was previously revived for this purpose, it is unclear why petitioner has sought revival of the instant application. Clarification is required prior to a decision on the petition filed July 21, 2008 being rendered.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this letter. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/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

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of :
Andrew Griffiths et al :
Application No. 10/961,695 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 28855-301 :

This is a decision on the petition, filed July 7, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is President and Fellows Harvard College and Medical Research Council and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to President and Fellows Harvard College and Medical Research Council.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction as required by 3.81(b). The $100 certificate of correction fee was received on July 7,

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

2011. *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to President and Fellows Harvard College and Medical Research Council has been recorded. Therefore, upon submission of the required certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that President and Fellows Harvard College and Medical Research Council was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth President and Fellows Harvard College and Medical Research Council, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED
OCT 22 2010
OFFICE OF PETITIONS

In re Application of :
Gregory Remy Philippe Conti et al. :
Application No. 10/961,756 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No: TI-37336 :

This is a decision on the petition filed September 23, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 2, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned March 3, 2010. Accordingly, a Notice of Abandonment was mailed June 22, 2010.

This matter is being referred to Technology Center 2111 for appropriate action on the amendment filed September 23, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED
MAR 09 2012
OFFICE OF PETITIONS

In re Application of
Gregory Remy Philippe Conti et al.
Application No. 10/961,756
Filed: October 8, 2004
Attorney Docket No.: TI-37336

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 15, 2011 for failure to timely file a reply to the Final Office action mailed November 12, 2010 which set a three (3) month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 10, 2011.

The Notice of Appeal filed February 15, 2011, with the instant petition, in response to the Final Office Action, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2111 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LUKINS & ANNIS, P.S.
717 WEST SPRAGUE AVE., SUITE 1600
SPOKANE WA 99201

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Patent No. 6,932,376 :
Issue Date: August 23, 2005 :
Application No. 10/962,024 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. **PROFITT, RONALD E.** :

This is a decision on the petition under 37 CFR 1.378(c), filed August 18, 2011[1], to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight August 23, 2009, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

A petition to accept the unintentionally delayed payment of a maintenance fee under 37 CFR 1.378(c) must be accompanied by (1) a statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is also noted that petitioner has paid the $65 surcharge fee. However, unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office on or before the date the fee is due or within a

[1] Petitioner provided a copy of the postcard receipt, which shows that the original petition was received by the USPTO on April 22, 2011. Subsequently, the petition was misplaced within the Office.

grace period of 6 months thereafter, the patent will expire as of the end of such grace period. Therefore, since the maintenance fee was not paid within the six-month grace period the patent had expired and the $65 surcharge fee is unnecessary. Accordingly, the $65 surcharge fee will be credited to petitioner's deposit account as authorized.

Accordingly, the maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/18/10

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10962167 Patent No.: 7759449

CofC mailroom date: 12/10/10

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
[redacted]

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

Jane Sendler SPE 1765

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:
Amendments are OK to enter. T.B.

Terressa Boykin
TERRESSA M. BOYKIN
PRIMARY EXAMINER

PAGE 1/1 * RCVD AT 1/5/2011 7:53:07 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/16 * DNIS:2709990 * CSID:703 306 3186 * DURATION (mm-ss):00-28

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Quigley, et al.	:	
Application No. 10/962,172	:	ON REQUEST FOR
Filed: October 7, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 061300-0535	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 21, 2010. Applicants believe that they should be accorded an additional PTA of 464 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 **seven hundred seventy-eight (778) days** (868 days of PTO delay, reduced by 90 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the 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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United States Patent and Trademark Office
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VALAUSKAS CORDER LLC
150 SOUTH WACKER DRIVE
SUITE 620
CHICAGO, IL 60606

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of
Mark Gelido Barongan
Application No. 10/962,279
Filed: October 9, 2004
Attorney Docket No.: 9011/3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed January 15, 2010. A Notice of Abandonment was mailed on August 18, 2010. On March 10, 2011, the present petition was filed.

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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 3734 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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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Commissioner for Patents
United States Patent and Trademark Office
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Sang Bong Lee et al.	:	
Application No. 10/962,357	:	DECISION ON PETITIONS
Filed: October 8, 2004	:	

This is a decision on the petition under 37 C.F.R. 1.182, filed May 20, 2011, requesting that the USPTO change the status of the application such that the suspension of action is re-instated.

The petition is **GRANTED**.

The petition decision mailed April 23, 2010 stated that action in this application remains suspended until further notice due to on-going litigation. Proper notice, such as a court decision that clearly addresses the validity of the assignment document, has not been filed. Accordingly, action in this application remains suspended.

Any inquiries concerning this communication may be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
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 : June 15,2011

In re Application of :

Robert Herman

Application No : 10962477

Filed : 13-Oct-2004

Attorney Docket No : 038519-0111

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 June 15,2011

The request is **APPROVED.**

The request was signed by Benjamin A. Berkowitz (registration no. 59349) on behalf of all attorneys/agents associated with Customer Number 22428 . All attorneys/agents associated with Cusotmer Number 22428 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	SMITHS DETECTION INC.
Name2	
Address 1	2202 LAKESIDE BLVD.
Address 2	
City	EDGEWOOD
State	MD
Postal Code	21040
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	10962477
Filing Date	13-Oct-2004
First Named Inventor	Robert Herman
Art Unit	1634
Examiner Name	BETTY FORMAN
Attorney Docket Number	038519-0111
Title	FULLY CONTINUOUS BIOAEROSOL IDENTIFIER

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22428

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	SMITHS DETECTION INC.
Address	2202 LAKESIDE BLVD.
City	EDGEWOOD
State	MD
Postal Code	21040
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Benjamin A. Berkowitz/
Name	Benjamin A. Berkowitz
Registration Number	59349

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	10962480
Filing Date	13-Oct-2004
First Named Inventor	Robert Herman
Art Unit	1773
Examiner Name	BRIAN GORDON
Attorney Docket Number	038519-0110
Title	Automated bioaerosol analysis platform

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22428

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	SMITH DETECTION INC.
Address	2202 LAKESIDE BLVD.
City	EDGEWOOD
State	MD
Postal Code	21040
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Benjamin A. Berkowitz/
Name	Benjamin A. Berkowitz
Registration Number	59349

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

Decision Date : June 15,2011

In re Application of :

Robert Herman

Application No : 10962480

Filed : 13-Oct-2004

Attorney Docket No : 038519-0110

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 June 15,2011

The request is **APPROVED.**

The request was signed by Benjamin A. Berkowitz (registration no. 59349) on behalf of all attorneys/agents associated with Customer Number 22428 . All attorneys/agents associated with Cusotmer Number 22428 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	SMITH DETECTION INC.
Name2	
Address 1	2202 LAKESIDE BLVD.
Address 2	
City	EDGEWOOD
State	MD
Postal Code	21040
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

DEC 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,022,877 :
Issue Date: 4 April, 2006 :
Application No. 10/962,570 : DECISION ON PETITION
Filed: 13 October, 2004 :
Attorney Docket No. 260277US0 :

This is a decision on the petition filed on 9 June, 2010, properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

__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. (Forms enclosed.)

Incorrect and insufficient fees appear to have been submitted by an/the assignee.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration pursuant 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 two-month time limit can be granted pursuant to 37 C.F.R. §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 $400.00 as set forth in 37 C.F.R. §1.17(f). The petition for reconsideration **must** include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. §41(c) and 37 C.F.R. §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 C.F.R. §1.20(i)(2). This petition lacks item 3 and Petitioner **must** properly review his/her submissions to ensure that any renewed petition satisfies the then-current requirements of item 2 and the requirements as set forth in 37 C.F.R. §1.17(f).

BACKGROUND

Patent No. 7,022,877 (the '877 patent) issued on 4 April, 2006. The first maintenance fee could have been paid during the period from 4 April 2009, through midnight 4 October. 2009, or, with a surcharge, during the period from 5 October, 2009, through midnight 4 April, 2010. Accordingly, the patent expired after midnight 4 April, 2010, for failure to pay timely the first maintenance fee.

The instant petition was filed on 9 June, 2010. 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).

The maintenance fee cannot be accepted—the appropriate fees were not submitted and authorization to charge a deposit account for any underpayment was not provided.

The petition pursuant to 37 C.F.R. §1.378(c) is **dismissed**.

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.

Patent No. 7,022,877
Application No. 10/962,570

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[1]) 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
MELANIE L. BROWN
BASF CORPORATION
100 CAMPUS DRIVE
FLORHAM PARK NJ 07932

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,022,877 :
Issue Date: 4 April, 2006 :
Application No. 10/962,570 : DECISION ON PETITION
Filed: 13 October, 2004 :
Attorney Docket No. 260277US0 :

This is a decision on the petition filed on 6 December, 2010, properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

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. (Forms enclosed.)

Petitioner inappropriately and improperly refers to a conversation averred to have occurred with someone at the Office.

Petitioner, as one registered to practice before the Office is well aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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).

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[1] 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.

Patent No. 7,022,877
Application No. 10/962,570

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

BACKGROUND

Patent No. 7,022,877 (the '877 patent) issued on 4 April, 2006. The first maintenance fee could have been paid during the period from 4 April 2009, through midnight 4 October, 2009, or, with a surcharge, during the period from 5 October, 2009, through midnight 4 April, 2010.

Accordingly, the patent expired after midnight 4 April, 2010, for failure to pay timely the first maintenance fee.

The instant petition was filed on 9 June, 2010. 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).

The petition 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 as of the mail date of this decision.

The patent file is being returned to IFW Files Repository.

Patent No. 7,022,877
Application No. 10/962,570

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
MELANIE L. BROWN
BASF CORPORATION
100 CAMPUS DRIVE
FLORHAM PARK NJ 07932

[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.

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)
6965005	2005-11-15	10/962,634	2004-10-11	MLEX-30725

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Grady K. Bergen/	Date (YYYY-MM-DD)	2010-12-07
Name	Grady K. Bergen	Registration Number	37587

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6965005
Issue Date: November 15,2005
Application No. 10962634
Filed: October 11,2004
Attorney Docket No. 7259-1-CIP-DIV

:
: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.

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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TAYLOR IP, P.C.
P.O. BOX 560
142. S MAIN STREET
AVILLA IN 46710

MAILED

AUG 26 2011

OFFICE OF PETITIONS

In re Patent No.: 7,238,056 :
Issue Date: 3 July, 2007 :
Application No. 10/962,946 : DECISION
Filed: 12 October, 2004 :
Attorney Docket No. 22389-US-01 :

This is a decision on the petition filed on 25 July, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

[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

Patent No.: 7,238,056
Application No. 10/962,946

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

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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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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO, CA 92101

Mail Date: 11/23/2010

Applicant	: Israel Jay Klein	: DECISION ON REQUEST FOR
Patent Number	: 7519023	: RECALCULATION of PATENT
Issue Date	: 04/14/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/962,957	: OF WYETH
Filed	: 10/12/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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INTERNATIONAL BUSINESS MACHINES CORPORATION
RICHARD LAU
IPLAW DEPARTMENT / BLDG 008-2
2455 SOUTH ROAD – MS P386
POUGHKEEPSIE NY 12601

MAILED
JAN 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Irwin Boutboul et al	:	
Application No. 10/963,028	:	DECISION GRANTING PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920040064US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 6, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

This matter is being referred to Technology Center AU 2443 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Nelson S. DaCunha
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

MAILED

FEB 15 2011

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,492,353	:	DECISION ON REQUEST
Ushimaru et al.	:	FOR
Issue Date: February 17, 2009	:	RECONSIDERATION OF
Application No. 10/963,096	:	PATENT TERM ADJUSTMENT
Filed: October 12, 2004	:	and
Atty Docket No. 9281-4920	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 17, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-three (1163) 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 one thousand one hundred sixty-three (1163) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-three (1163)** 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 : 7,492,353 B2

DATED : **February 17, 2009** **DRAFT**

INVENTOR(S) : Ushimaru 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 870 days

Delete the phrase "by 870 days" and insert – by 1163 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/963,460	10/12/2004	Maghsoud M. Dariani	CELG-0430	1242

23377 7590 10/15/2010
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

EXAMINER
SUTTON, DARRYL C

ART UNIT	PAPER NUMBER
1612	

NOTIFICATION DATE	DELIVERY MODE
10/15/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eofficemonitor@woodcock.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 1 5 2010

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of:
Dariani et al.
Serial No.: 10/963,460
Filed: October 12, 2004
Attorney Docket No.: **CELG-0430**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed October 4, 2010, to expunge information from the above identified application. This application is abandoned.

Petitioner requests that information submitted in the Information Disclosure Statement filed November 6, 2006 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for the documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Alexandria, VA 22313-1450
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JONES, WALKER WAECHTER, POITEVENT CARRERE,
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BATON ROUGE, LA 70809

MAILED
AUG 24 2010
OFFICE OF PETITIONS

In re Patent No. 7,124,681	:	
Issue Date: October 24, 2006	:	
Application No. 10/963,614	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. 43304/120007-05	:	

This is a decision on the petition under 37 CFR 1.182, filed June 22, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi P. Farmer in the Office of Data Management (703) 756-1556.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Niomi P Farmer, Randolph Square 9th Floor, Room D30-B (Fax No. (571) 270-9937)

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. 7125738
Issue Date: October 24,2006
Application No. 10963659
Filed: October 14,2004
Attorney Docket No. 0941-1051PUS1

:
: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)
7,125,738	2006-10-24	10/963,659	2004-10-14	LKSP0141USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	◯	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/31/11

TO SPE OF : ART UNIT 3643

SUBJECT : Request for Certificate of Correction for Appl. No 10/963,689.: 7328532

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: _____

/Peter M. Poon/

SPE Peter M. Poon
Art Unit 3643