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)
7215695	2007-05-08	10963694	2004-10-13	ID 029111

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2011-10-04
Name	Steven M. Gruskin	Registration Number	36818

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

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. 7215695
Issue Date: May 8,2007
Application No. 10963694
Filed: October 13,2004
Attorney Docket No. 93107

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

This is a decision on the electronic petition, filed October 4,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 4,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,669,250	:	DECISION ON REQUEST
Baron, et al.	:	FOR
Issue Date: March 2, 2010	:	RECONSIDERATION OF
Application No. 10/963,745	:	PATENT TERM ADJUSTMENT
Filed: October 14, 2004	:	and
Atty Docket No. **005127.00380**	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 2, 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 forty-two (942) 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 sixty-one (761) days is **GRANTED to the extent indicated herein.**

It is noted that patentees failed to account for the filing of the notice of appeal on September 25, 2008. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 127 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, September 25, 2008, and ending on the date the non-final Office action was mailed, January 29, 2009. Thus, the B delay is 743 days (870 - 127).

It is noted that patentees dispute the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) for the filing of the "Miscellaneous Letter" on January 10, 2010. Specifically, patentees state:

> The miscellaneous letter was filed [to] ensure the Interview Summary for the telephonic interview dated June 6, 2007 was in the official record. In review of the file history of the application, Applicants realized that this document was not shown in the PTO's PAIR system and, therefore, filed the miscellaneous letter which included the Interview Summary for the telephonic interview date June 6, 2007. Hence, the filing was a supplemental reply and, further, this filing cannot be construed as a delay by the Applicants to prosecute the application.

Excerpt taken from "Petition for Reconsideration of Patent Term Adjustment, filed May 2, 2010, p. 4.

Patentees' argument has been considered, but is not persuasive. A review of the application reveals that a reduction of the patent term adjustment of 54 days was entered for the filing of the "Miscellaneous Letter", on January 8, 2010, after the mailing of the Notice of Allowance and Issue Fee Due was mailed on October 8, 2009. Such a paper is not identified as one of the papers[1] the filing of which the Director has specifically

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[1] It is noted that *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001)states, in pertinent part, that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or

deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[2]. Further, the fact that patentees allege the filing was made to clarify the record has no bearing on whether the filing interfered and delayed the patent issue process. It is worth noting that patentees, arguably, had ample opportunity to make such a filing prior to allowance. The filing of an Interview Summary from 2007 may have delayed processing of the application and be deemed a failure to engage in reasonable efforts to conclude processing of the application. Thus, reduction to patent term adjustment of 54 days pursuant to 37 CFR 1.704(c)(10) is proper and will not be removed.

In view thereof, the patent term adjustment is 761 days (936 days of Office delay - 175 days of Applicant delay.)

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

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examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

[2] 37 CFR 1.704(c)(10)provides that:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the periods of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or other such paper; or

(ii) Four months…

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 Corrections Branch for issuance of a certificate of correction.

The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred and sixty-one **(761)** days.

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

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 : 7,669,250 B2

DATED : Mar. 2, 2010

INVENTOR(S) : Baron 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 (762) days

Delete the phrase "by 762 days" and insert – by 761 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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SOUND INTELLECTUAL PROPERTY PLLC
PO BOX 52652
BELLEVUE WA 98015-2652

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Travis D. McClure	:	
Application No. 10/964,119	:	ON PETITION
Filed: October 12, 2004	:	
Attorney Docket No. 1681-003-03	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 12, 2011.

The petition under 37 CFR 1.181 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 1.181".

The above-identified application became abandoned for failure to timely respond to the Notice to File Corrected Application Papers mailed on April 20, 2011. This Notice set a period for reply of two (2) months to correct a specification/drawing inconsistency. No reply having been received, the application became abandoned on June 21, 2011.

Petitioner states that he did not receive the April 20, 2011 Notice.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 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.

Here, petitioner has not submitted a copy of a master docket report showing all of the firm's replies docketed for a due date of June 20, 2011. Rather, petitioner has only submitted a copy of a docket report for the instant application. On renewed petition, petitioner should submit a copy of a master docket report, or if none exists, state such for the record.

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

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

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

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[1] MPEP 711.03(c).

Telephone inquiries related to 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
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PO BOX 52652
BELLEVUE WA 98015-2652

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Travis D. McClure	:	
Application No. 10/964,119	:	ON PETITION
Filed: October 12, 2004	:	
Attorney Docket No. 1681-003-03	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 25, 2011.

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

The above-identified application became abandoned for failure to timely respond to the Notice to File Corrected Application Papers mailed on April 20, 2011. This Notice set a period for reply of two (2) months to correct a specification/drawing inconsistency. No reply having been received, the application became abandoned on June 21, 2011. The Office mailed a Notice of Abandonment on July 20, 2011. Applicant filed a petition to withdraw the holding of abandonment on August 12, 2011. However, the petition was dismissed in a decision mailed on August 26, 2011.

Petitioner states that he did not receive the April 20, 2011 Notice.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 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.

On renewed petition, petitioner has submitted a copy of a master docket report showing all of the firm's replies docketed for a due date of June 20, 2011. An entry for the instant application does not appear, supporting the conclusion that the April 20, 2011 Notice to File Corrected Application Papers was not received.

The application is being forwarded to the Office of Data Management for re-mailing of the April 20, 2011 Notice to File Corrected Application Papers, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] MPEP 711.03(c).

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)
7065930	2006-06-27	10964143	2004-10-13	3560.002ADIV

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	/Dennis G. LaPointe/	Date (YYYY-MM-DD)	2011-02-08
Name	DENNIS G. LAPOINTE	Registration Number	40693

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

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

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

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

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

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

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

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

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

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

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

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P.O. Box 1450
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In re Patent No. 7065930
Issue Date: June 27,2006
Application No. 10964143
Filed: October 13,2004
Attorney Docket No. 3560.002ADIV

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

This is a decision on the electronic petition, filed February 9,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 9,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Patent No. 7,754,211	:	DECISION ON REQUEST
Rosenblum, et al.	:	FOR
Issue Date: July 13, 2010	:	RECONSIDERATION OF
Application No. 10/964,195	:	PATENT TERM ADJUSTMENT
Filed: October 13, 2004	:	and
Atty Docket No.CLFR:057USD1/	:	NOTICE OF INTENT TO ISSUE
10412120	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and sixty (860) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **eight hundred and fifty-nine (859)** days is **GRANTED to the extent indicated herein**[1].

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.

---

[1] The appeal period excluded from the "B" delay period is 562 days, not 561. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id. Thus, in this instance, the period of appeal excluded from the "B" delay period is 562 days with said period beginning April 14, 2008, and ending October 27, 2009.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred fifty-nine (859)** days.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,754,211 B2

DATED : Jul. 13, 2010

INVENTOR(S) : Rosenblum, 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 (731) days

Delete the phrase "by 731 days" and insert – by 859 days--

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Serafin Diaz Spindola, et al.	:	
Application No.: 10/964,319	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No.: 04506	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 23, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2464 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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JUN 01 2011

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
John W. Ketchum et al	:	
Application No. 10/964,320	:	DECISION GRANTING PETITIONS
Filed: October 13, 2004	:	
Attorney Docket No. 030436	:	

This is a decision on the petitions filed May 27, 2011, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), and a petition under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance and Fee(s) Due mailed December 13, 2010, is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on May 27, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2464 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the currently filed IDS.

/Karen Creasy/
Karen Creasy
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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MAILED
MAR 01 2012
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Walton et al.	:	DECISION ON PETITION
Application No. 10/964,330	:	
Filed: October 13, 2004	:	
Attorney Docket No. 040001	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 24, 2012.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned effective April 6, 2011 for failure to file a proper response to the final rejection mailed January 5, 2011. A request for pre-appeal brief conference was filed on April 3, 2011. However, no notice of appeal was timely filed. A courtesy Notice of Abandonment was mailed on November 21, 2011.

The petition includes the petition fee and the required statement of unintentional delay. The required reply in the form of a Notice of Appeal (and payment of the appeal fee) was previously filed on November 3, 2011. No terminal disclaimer is required. Petitioner has met the requirements for revival pursuant to 37 CFR 1.137(b).

Petitioner is given two (2) months from the mailing date of this decision to file the appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)). The time period for filing the appeal brief may be extended under 37 CFR 1.136.

Technology Center AU 2464 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for processing of the Notice of Appeal and to await receipt of the Appeal Brief (or other appropriate action).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/07/11

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10964403 Patent No.: 7486240

CofC mailroom date: 09/27/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☑ **Approved** — **All** changes apply.

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

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

Comments: _____

Douglas W. Owens 2821

DOUGLAS W. OWENS
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/07/11

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10964403 Patent No.: 7486240

CofC mailroom date: 09/27/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☑ **Approved** — **All** changes apply.

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

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

Comments: _____

_____

_____

_____

_____

Douglas K. Ono — 2821

SPE — **Art Unit**

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In re Application of	:	
John Storrie	:	DECISION ON PETITION
Application No. 10/964,466	:	
Filed: October 13, 2004	:	
Attorney Docket No. 16991IDUS01U	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 28, 2011.

The petition is **GRANTED**.

The Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review on May 5, 2010. This Notice set an extendable period for reply of one (1) month. In reply, Applicant filed an Appeal Brief on July 6, 2010, made timely by obtaining a one month extension of time, and by the fact that July 6, 2010 fell on a federal holiday.

As Applicant timely filed an Appeal Brief, the proper response from the Office is an Examiner's Answer, or a Notice of Allowance. Here, however, the Examiner mailed an Office communication on September 30, 2010, stating that claims may be in condition for allowance if amended, and stating that Applicant

is advised to contact the Examiner within 30 days. The Office mailed a Notice of Abandonment on June 9, 2011, stating that no reply to the September 30, 2010 communication had been received.

Applicant's argument has been considered, and is found to be persuasive. The September 30, 2010 communication was not a proper reply to Applicant's Appeal Brief. As set forth above, the proper reply to an Appeal Brief is an Examiner's Answer, or a Notice of Allowance. Additional communications are recognized as a courtesy to the applicant. The time period indicated by the Examiner in the September 30, 2010 communication was not a period for reply in accordance with the statute, and therefore, did not require a reply.

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

The application is currently under appeal, awaiting an Examiner's Answer.

The application is being forwarded to Group Art Unit 2454 for consideration of the Appeal Brief, filed July 6, 2010.

Telephone inquiries regarding 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	
	10/964,467	CHONG CONKLIN ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				7.1	435	6	23						
INTERNATIONAL CLASSIFICATION					530	300	350						
G	0	1	N	33/53									
C	1	2	Q	1/68									
C	1	2	Q	1/37									
A	6	1	K	38/00									
C	0	7	K	1/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 4/7/2011	Total Claims Allowed: 27
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: None

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

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

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

MAILED
DEC 14 2010
OFFICE OF PETITIONS

In re Patent No. 7,813,800
Issued: October 12, 2010
Application No. 10/964,509
Filed: October 13, 2004
Attorney Docket No. 1074-003US01/PB
10105.00

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed on November 22, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 39 days to 226 days. Since the request is after issuance, the request is being treated under 37 CFR 1.705(d).

The request for review of the patent term adjustment is **DISMISSED.**

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

The patent term adjustment indicated in the patent is properly reflected.

On October 12, 2010, the above-identified application matured into U.S. Patent No. 7,813,800 with a revised patent term adjustment of 39 days. On November 22, 2010, Patentees submitted the instant application.

Applicants filed a response to the Final Office action mailed September 18, 2009. Then on May 24, 2010, applicants filed a Supplemental Response. 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.

Applicants dispute the reduction of 187 days for the filing of the Supplemental Amendment filed May 24, 2010 and argue that "this reduction of the period of PTA due to the Supplemental Response is in error, because Examiner George C. Manual expressly requested that Applicant file the response."

Applicant's arguments have been considered, but not found to be persuasive. Pursuant to 37 CFR § 1.704©), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

The record does not support a conclusion that the Supplemental Response was requested by the examiner. Accordingly, the filing of the amendment as a supplemental response on May 24, 2010 may be considered a failure to engage and a proper basis for reduction.

As such, the patent term adjustment is will remain 39 days, not 226 days.

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 decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

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JUL 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,813,800
Issued: October 12, 2010
Application No. 10/964,509
Filed: October 13, 2004
Attorney Docket No. 1074-003US01/PB
10105.00

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

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed on January 14, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 39 days to 226 days.

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

On October 12, 2010, the above-identified application matured into U.S. Patent No. 7,813,800 with a revised patent term adjustment of 39 days.

Applicants argue that a response to the Final Office action mailed September 18, 2009 was filed November 18, 2009. Then on May 24, 2010, applicants filed a Supplemental Response.

Applicants filed a REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT on November 22, 2010 disputing the reduction of 187 days for the filing of the Supplemental Amendment filed May 24, 2010 and argued that "this reduction of the period of PTA due to the Supplemental Response is in error, because Examiner George C. Manual expressly requested that Applicant file the response." The request was dismissed because it was not clear that the Supplemental Response was requested by the examiner. Accordingly, the filing of the amendment as a supplemental response on May 24, 2010 was considered a failure to engage and a proper basis for reduction.

Pursuant to 37 CFR § 1.704(c)(8), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following

reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

Comes now Applicant with evidence that the filing of the supplemental response filed May 24, 2010 was expressly requested by the Examiner.

A review of the application history reveals that applicants are correct. The record supports a conclusion that there is no basis for a reduction in patent term adjustment. The interview summary mailed January 14, 2011 confirms that the amendment filed May 24, 2010 was expressly requested by the Examiner.

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

As such, the patent term adjustment is 226 (295 "A delay days"- 69 applicant delay) days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred twenty-six (226)** 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 : 7,813,800 B2

DATED : October 12, 2010

INVENTOR(S) : Susan H. Fleenor

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 (39) days

Delete the phrase "by 39 days" and insert – by 226 days--

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MAILED
JUN 21 2011
OFFICE OF PETITIONS

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

In re Application of:	:	
Gi Bin Kim	:	
Pat. Num.: 7,518,668	:	
Issue Date: 04/14/2009	:	
Application No. 10/964773	:	ON PETITION
Filing or 371(c) Date: 10/15/2004	:	
Atty. Docket No. 8733.1178.00	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182, filed May 12, 2011, requesting a duplicate Letters Patent.

The petition is **GRANTED**.

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

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person, in the Office of Data Management at (703) 756-1555.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: Ollie Person (FAX 571-270-9764)
Kimberly Terrell (FAX 571-270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KYOCERA INTERNATIONAL INC.
INTELLECTUAL PROPERY DEPARTMENT
P.O. BOX 928289
SAN DIEGO CA 92192

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Mark Robinson et al.	:	
Application No. 10/964,843	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. UTL 00411	:	

This is a decision on the PETITION UNDER 37 CFR 1.59(b) TO EXPUNGE INADVERTENTLY SUBMITTED EMAILS FROM RESPONSE TO OFFICE ACTION, filed June 4, 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that copies of emails filed on April 27, 2010 be expunged from the record. Petitioner states that these emails were inadvertently filed and were not meant to be part of applicants' response filed that day.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/19/11

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10964888 Patent No.: 7842477

CofC mailroom date: 02/09/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Ardin H. Marschel
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER
AU 1636 7-19-11

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/08/10

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 10964912 Patent No.: 7620001

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

/Ricky Ngo/ 2464
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110201

DATE : February 01, 2011

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,344,491

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Charles A Marmor, II/
Supervisory Patent Examiner.Art Unit 3735

UNITED STATES 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 12 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,488,593	:	DECISION ON REQUEST FOR
BELCHER et al.	:	RECONSIDERATION OF
Issue Date: February 10, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/965,227	:	
Filed: October 15, 2004	:	
Atty Docket No. 091242-0144	:	

This is a decision on the renewed petition filed on July 1, 2010,[1] 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 nineteen (19) days.

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

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

[1] This petition was timely filed within two months of the decision on the request for reconsideration of patent term adjustment mailed May 3, 2010.

prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is one hundred three (103) days, beginning on July 20, 2007, the date of filing of the notice of appeal and ending on October 30, 2007, the day before the filing of the RCE. Thus, B delay is zero (0) days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/2/12

TO SPE OF : ART UNIT 3633

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/965,538 Patent No.: 8091313

CofC mailroom date: 01/31/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes be made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

☒ **Approved** All changes apply.

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

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

Comments: _____

SPE 3633 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 6, 2010

TO SPE OF : ART UNIT 2817
SUBJECT : Request for Certificate of Correction for Appl. No/10/965541 pt.7400217

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: All changes apply because the CofC was filed as an "Applicant's mistake", and the claim change is due to a minor typo made in original claim 10 in the amendment dated 12/10/2006 (see claim 10 in the amendment dated 6/27/2006). Therefore, it is a change of "minor character" that does not "materially affect the scope or meaning of the patent" (MPEP 1481) as examined.

/BS/

SPE — 2817 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100924

DATE : September 24, 2010

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 7,667,732

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:

No new matter has been introduced and the scope or meaning of the claims was not changed.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/12/2011 **Paper No.:** —

TO SPE OF : ART UNIT 2168

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/965690 Patent No.: 7831615 B2

CofC mailroom date: 1/7/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE **Art Unit** 2168

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,939,250	:	DECISION ON REQUEST
Oldenburg et al.	:	FOR RECONSIDERATION OF
Issue Date: May 10, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/965,694	:	
Filed: October 14, 2004	:	
Atty Docket No.02940-19837US01	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 C.F.R. § 1.705(d))" filed June 23, 2011. Patentees request that the Patent Term Adjustment indicated on the face of the patent be corrected from nine hundred sixty-six (966) days to one thousand thirty-seven (1,037) days.

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

Preliminarily, it is noted that the record does not reveal to the undersigned that an earlier request for recalculation under 37 CFR 1.705(b) had been filed as stated in the instant request at page 1.

On May 10, 2011, the above-identified application matured into U.S. Patent No. 7,939,250. The instant request for reconsideration filed June 23, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 966 days. Patentee maintain that the period of adjustment for the Office taking in excess of three years to issue the patent should be 907 days - 175 days consumed by an appeal, or 732 days. Further, patentee maintains that the reduction, pursuant to 37 CFR 1.704(c)(10), for the filing of an amendment after the

mailing of the notice of allowance is properly calculated as 13 days, not 14 days.

Patentees' arguments have been considered, but not found persuasive. The B delay period is properly calculated as 730 days, not 732 days. The period excluded for any time consumed by the filing of a request for continued examination begins on the date of filing of the RCE and ends on the date of issuance of the patent. This is consistent with the period excluded for any time consumed by appellate review as likewise such period begins on the date of filing of the notice of appeal. Patentees' statement that the date of filing of the notice of appeal is day 0 is incorrect.

The reduction for the filing of the drawings on March 3, 2011 after the mailing of the notice of allowance on January 4, 2011 is correct. 37 CFR 1.704(c)(10) provides that the filing of papers after the mailing of the notice of allowance constitutes a failure to engage in reasonable efforts to conclude prosecution (processing or examination). It is undisputed that the drawings were filed after the mailing of the notice of allowance. 37 CFR 1.704(c)(10) does not exempt papers filed at the request of the examiner or other components of the Office. Further, filing of drawings after the mailing of the notice of allowance is not a circumstance that the Director has deemed not to cause substantial interference and delay in the patent issue process for which entry of a reduction is not warranted. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). It is further noted that the requirement for corrected drawings was necessitated by patentees' failure to file drawings in compliance with 1.84. Patentee was not precluded from earlier making these drawings in compliance with the rule and avoiding entry of a period of reduction.

Entry of the reduction of 69 days for applicant delay is warranted and will not be removed.

In view thereof, the patent term adjustment indicated on the patent of nine hundred sixty-six (966) days is correct.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and*

Information Disclosure Statements, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* changes this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the **effective or published** date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,939,250 B2
Ser. No. : 10/965,694
Inventor(s) : Oldenburg et al.
Issued : May 10, 2011
Title : VITAMIN K EPOXIDE RECYCLING POLYPEPTIDE VKORC1, A THERAPEUTIC TARGET OF COUMARIN AND THEIR DERIVATIVES
Docket No. : 02940-19837US01
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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/24/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10965695 Patent No.: 7700609

CofC mailroom date: 08/16/11

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
[redacted]

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Andrew D. Kosar/ 1622

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)
7041520	2006-05-09	10/965,807	2004-10-18	1054.0006

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	/Ashok K. Mannava/	Date (YYYY-MM-DD)	2011-05-09
Name	Ashok K. Mannava	Registration Number	45301

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. 7041520
Issue Date: May 9,2006
Application No. 10965807
Filed: October 18,2004
Attorney Docket No. P26154

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

This is a decision on the electronic petition, filed May 9,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 9,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Spencer Fane Britt & Browne LLP
Suite 1400
1000 Walnut St
Kansas City MO 64106

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of Evans et al. Application No. 10/965,989 Filed: October 15, 2004 Attorney Docket No. 5017006-17 / 101.04 Title: TICKET ENTRY SYSTEMS AND METHODS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 16, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed June 2, 2011, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 3, 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 an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable.

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 December 16, 2011 can be processed in due course.

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

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning this application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Janaki K. Davda
315 S. Beverly Dr.
Suite 210
Beverly Hills, CA 90212

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Deane A. Gardner et al.	:	
Application No. 10/966,019	:	DECISION GRANTING PETITION
Filed: October 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09991-168001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 14, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 3, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Patent No. 7,911,625 : LETTER REGARDING
Issued: March 22, 2011 : PATENT TERM ADJUSTMENT
Application No. 10/966,024 : and
Filed: October 15, 2004 : NOTICE OF INTENT TO ISSUE
Attorney Docket No. 09991-0171001 / 561 : CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on May 19, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 1132 to 1249 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ONE THOUSAND ONE HUNDRED FOUR (1104) days.

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

On March 22, 2011, the above-identified application matured into U.S. Patent No. 7,911,625 with a patent term adjustment of 1132 days. On May 19, 2011, Patentees submitted the instant application. Patentees disclose that the patent term adjustment of 1132 days indicated on the front of the patent is incorrect because Applicant Delays of 27 days for delay from May 28, 2009, to June 23, 2009 and 1 day for delay from October 12, 2010, to October 13, 2010 should have been accorded pursuant to 37 C.F.R. § 1.704(c)(8). Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on October 29, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 145 day period from October 29, 2010 (the mailing date of the Notice of Allowance) until March 22, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include

the 145 days and be increased from 589 to 734 days. Patentee concludes that the correct patent term adjustment is 1249 days (the sum of 963 days of "A delay" and 734 days of "B delay" minus 294 days overlap minus 154 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

37 CFR 1.704(c)(8) provides that:

> 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, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered. The response in the form of an Information Disclosure Statement (IDS) filed June 23, 2009 was filed after the filing of a Request for Continued Examination (RCE) on May 27, 2009, in response to the Final Office Action on January 27, 2009. Additionally, an IDS was filed on October 13, 2010 after the filing of an RCE on October 12, 2010. The filing of both the IDS on June 23, 2009 and the filing of the IDS on October 13, 2010 are considered a failure to engage under 1.704(c)(8).

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 27 days counting the number of days in the period beginning on the day after the RCE was filed, May 27, 2009 and ending on the date of filing of the IDS on June 23, 2009 and a period of reduction of 1 day counting the number of days in the period beginning on the day after the RCE was filed, October 12, 2010 and ending on the date of filing of the IDS on October 13, 2009 . Accordingly, an additional period of reduction of 28 days is being entered.

As it relates to the calculation of "B delay, patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 589 days based on the application having been filed under 35 U.S.C. 111(a) on October 15, 2004 and the patent not having issued as of the day after the three year date, October 15, 2007, and requests for continued examination under 132(b) having been filed on May 27, 2009, June 9, 2010 and October 12, 2010. In other words, the 145-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued

examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that 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

[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.

language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a

patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

---

[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.

"American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

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

previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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

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

In this instance, requests for continued examination were filed on May 27, 2009, June 9, 2010, and October 12, 2010 and the patent issued by virtue of those requests on March 22, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 27, 2009 and ending on March 22, 2011 is not included in calculating Office delay.

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

CONCLUSION

In view of the above, the patent should have issued with a patent term adjustment of One thousand one hundred four (1104) days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred four (1104)** 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 : 7,911,625 B2

DATED : March 22, 2011

INVENTOR(S) : Robert Martin

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 (1132) days

Delete the phrase "by 1132 days" and insert – by 1104 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,911,625	:
Issued: March 22, 2011	: DECISION ON REQUEST FOR
Application No. 10/966,024	: RECONSIDERATION OF
Filed: October 15, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. 09991-0171001 / 561	:

This is a decision on the request for reconsideration filed August 1, 2011, pursuant to 37 CFR §1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1104 days to 1249 days.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

The patent term adjustment indicated in the previous decision mailed July 1, 2011 is properly indicated.

Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on October 29, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 145 day period from October 29, 2010 (the mailing date of the Notice of Allowance) until March 22, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 145 days and be increased from 589 to 734 days.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered.

The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 589 days based on the application having been filed under 35 U.S.C. 111(a) on October 15, 2004 and the patent not having issued as of the day after the three year date, October 15, 2007, and requests for continued examination under 132(b) having been filed on May 27, 2009, June 9, 2010 and October 12, 2010. In other words, the 145-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that 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.

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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.

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

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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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.

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).

[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.

In this instance, requests for continued examination were filed on May 27, 2009, June 9, 2010, and October 12, 2010 and the patent issued by virtue of those requests on March 22, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 27, 2009 and ending on March 22, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is DENIED.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

CHRISTOPHER & WEISBERG, P.A.
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In re Application of	:	
Michael Neale et al.	:	
Application No. 10/966,030	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. **1368-2U**	:	

This is a decision on the petition, filed March 15, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed December 30, 2009, which set a one (1) month or thirty (30) days whichever is longer for reply. A Notice of Abandonment was mailed on October 13, 2010.

Petitioner asserts that the Notice dated December 30, 2009, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice of December 30, 2009, 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 Office action 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 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.

(2) 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.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. 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. See MPEP §711.03(c)(I)(A

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item (3) of the above-stated requirements.

The evidence submitted with the instant petition does not appear to be the master docket associated with the petitioner's firm. Therefore, petitioner needs to submit a copy of the **master docket** report showing **all** replies docketed for a date **one (1) month** from December 30, 2009, the mail date of the nonreceived Office action, as documentary proof of nonreceipt.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of December 30, 2009, 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 petition fee required under 37 CFR 1.17(m).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael Neale et al.	:	
Application No. 10/966,030	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. **1368-2U**	:	

This is a decision on the renewed petition, filed July 20, 2011 and supplemented on August 12, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed December 30, 2009, which set a one (1) month or thirty (30) days whichever is longer for reply. A Notice of Abandonment was mailed on October 13, 2010.

Petitioner asserts that the Notice dated December 30, 2009, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice of December 30, 2009, 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 Office action 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 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.

(2) 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.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. 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. See MPEP §711.03(c)(I)(A

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

This application is being referred to the Technology Center Art Unit 1611 for consideration of the reply filed July 20, 2011.

/ Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,900,542	:	DECISION ON REQUEST FOR
Issued: March 8, 2011	:	RECONSIDERATION OF PATENT
Application No. 10/966,127	:	TERM ADJUSTMENT AND
Filed: October 15, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.5806-234	:	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 May 9, 2011. Patentee requests that the patent term adjustment for the above-identified patent be set at 522 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **four hundred and thirty-six (436) days**.

On March 8, 2011, Application No. 10/966,127 matured into Patent No. 7,900,542. The instant request for reconsideration filed April 18, 2011, was timely filed within two (2) months of the date the patent issued. See 37 CFR 1.705(d). Patentees dispute the reduction of 120 days associated with the filing of a "miscellaneous incoming letter" received in the Office on November 1, 2010. Patentee asserts that the paper filed on November 1, 2010, was a request to review the patent term adjustment, and therefore, no reduction is warranted under 37 CFR 1.704(c)(10).

A review of the PALM calculations for this application reveals that the patent term adjustment was reduced by 120 days for the submission of the "miscellaneous incoming letter." See 37 CFR 1.704(c)(10). However, a review of the application record confirms that no paper aside from the "Request for Review of Patent Term Adjustment" was filed after the mailing of the notice of allowance. This request is not a paper for which its filing is considered a "failure to engage in reasonable efforts"

within the meaning of 37 CFR 1.704(c)(10). **Thus, it is concluded that the reduction of 120 days is not warranted and is being removed.**

It is noted that the Request for Continued Examination was not filed until July 7, 2008, rather than the August 13, 2007, as the date is entered in PALM records. With this adjustment, entry of a 265-day period of adjustment to the patent term pursuant to 37 CFR 1.702(b)and 37 CFR 1.702(b)is warranted, with said period beginning October 16, 2007, and ending July 6, 2008—the day before the date the Request for Continued Examination was filed. **A period of adjustment to the patent term of 265 days is being entered, accordingly.**

Review of the record reveals that entry of a reduction to the patent term adjustment of 176 days is warranted pursuant to 37 CFR 1.704(c)(7). A review of the application file history reveals a response to a non-final Office action was filed on August 13, 2007, but the Office PAIR system indicates the response was filed March 19, 2009. A notice advising that the reply filed August 13, 2007, was not fully responsive was November 1, 2007, to which applicants filed a response on November 12, 2007. 37 CFR 1.704(c)(7) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (7) Submission of a reply having an omission (§1.35(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 an ending on the date the reply or other paper correcting the omission was filed.

It is undisputed that the response filed August 13, 2007, contained an omission and that the response correcting the omission was not filed until November 12, 2007. **Accordingly, pursuant to 37 CFR 1.704(c)(7), a reduction of 176 days will be entered with said period beginning on the day after the date the reply having an omission was filed, August 14, 2007, and ending**

on the date the reply correcting the omission was filed, November 12, 2007.

In view thereof, the revised patent term adjustment indicated in the patent is 436 days (600 days of "A" delay + 265 days of "B" delay - 0 days of overlap - 429 days of applicant delay).

The Office is in receipt of the $200. 00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred and thirty-six (436) days.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,900,542 B2

DATED : Mar. 8, 2011

INVENTOR(S) : Kapolnek, 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 (227) days

Delete the phrase "by 227 days" and insert – by 436 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

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DEC 06 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,368,727 :
Issued : May 6, 2008 : ON PETITION
Application No. 10/966,243 :
Filed: October 15, 2004 :
Attorney Docket No. **21384-002001** :

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 21 2011
OFFICE OF PETITIONS

WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL CA 91935

In re Application of	:	
Bar-Giora GOLDBERG	:	ON PETITION
Application No. 10/966,281	:	
Filed: October 15, 2004	:	
Atty. Docket No.: AVA-01		

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application went abandoned for failure to reply in a timely manner to the final Office action mailed July 21, 2010, which set a shortened statutory period for reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned on October 22, 2010. A Notice of Abandonment was mailed February 28, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continuing Examination (RCE) and RCE fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $810 (small entity), and (3) a statement of unintentional delay. The reply to the final Office action is accepted as having been unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 2618 for further action on the filed Response.

for

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 22 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Paul Sajda, et. al.	:	
Application No. 10/966,290	:	NOTICE
Filed: October 15, 2004	:	
Attorney Docket No. A35205-PCT-USA-A	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed on September 8, 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(c) is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of
Daniel Manhung WONG
Application No. 10/966,511
Filed: August 7, 2008
Attorney Docket No. **OR03-29101**

DECISION ON PETITION
UNDER 37 CFR 1.181

This is in response to the communication, filed April 5, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." See 37 CFR 1.181(f).

This application became abandoned, by operation of law, on March 8, 2010 for failure to fully reply to the requirements set forth in the Notice of Allowability mailed on December 7, 2009. A Notice of Abandonment was mailed on March 22, 2010.

Petitioner asserts that the application is not in fact abandoned because the requisite response, i.e., the submission of the oath/declaration, was filed on October 14, 2004.

The filed record discloses that on October 14, 2004, petitioner submitted an Oath/Declaration. Unfortunately, petitioner failed to submit a supplemental Oath/Declaration as required by the Notice of Allowability mailed December 7, 2009. Since applicant did not file such a response within the time period set forth in the Office action mailed December 7, 2009, the application was appropriately held abandoned.

Also, there is no indication that the petition is signed by a registered patent attorney of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Ying Wang appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Wang desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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), **$1620 for a large 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 $1620 petition fee.

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); and 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

PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN, FLEMING & DOWLER LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Daniel M. WONG	:	
Application No. 10/966,511	:	DECISION ON PETITION
Filed: October 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **OR03-29101**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 7, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 7, 2009. Accordingly, the date of abandonment of this application is March 8, 2010.

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

There is no indication that the petition is signed by a registered patent attorney of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Shun Yao appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Yao desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-12-11 Paper No.: _____

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/966,673 Patent No.: 7217798

CofC mailroom date: 4-5-11

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

FOR IFW FILES: Should CofC be approved

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

[signature] Acting SPE

1644 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

SCHWARTZ LAW FIRM PC
SOUTHPARK TOWERS
SUITE 1135
6100 FAIRVIEW ROAD
CHARLOTTE NC 28210

MAILED

FEB 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Clifford McClain	:	CORRECTED
Application No. 10/966,696	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 217/4	:	

This is a corrected decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 6, 2007. A previous decision granting the petition was mailed on September 12, 2007.

The petition is **DISMISSED**.

The above-identified application was held abandoned for failure to timely file a response to the Notice of Allowance mailed August 4, 2006. A Notice of Abandonment was mailed on May 14, 2007, indicating that applicant did not submit the issue or publication fees. The previous decision stated that a review of the application file revealed the presence of a check for the issue and publication fees, filed on November 6, 2006, made timely due to the fact that November 4, 2006 fell on a Saturday. See 37 CFR 1.7(a)3, 2007.

However, further review indicates that applicant's check submitted on November 6, 2006 had bounced.

In view thereof, the holding of abandonment was proper, and the application remains in abandoned status.

If applicant desires to revive the abandoned application, appropriate petition must be made pursuant to 37 CFR 1.137(a) or 37 CFR 1.137(b).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TUE NGUYEN
496 OLIVE AVE
FREMONT CA 94539

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
OHLSEN et al.	:	
Application No. 10/966,721	:	DECISION ON PETITION
Filed: 10/15/2004	:	
Attorney Docket No. 690089.405	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 1, 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 August 2, 2008. On December 2, 2008, the Office mailed a Notice of Abandonment.

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

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner on the reply received on March 15, 2010.

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

HOLLINGSWORTH & FUNK
8500 NORMANDALE LAKE BLVD., SUITE 320
MINNEAPOLIS, MN 55437

MAILED

JUL 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Mika HALLAMAA, et *al.*	:	
Application No. 10/966,747	:	DECISION ON PETITION
Filed: October 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **KOLS.144PA**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2011, to revive the above-identified application.

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 August 30, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 1, 2010.

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 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.

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.

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 2478 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.

Ramesh Kishnamurthy

Ramesh Kishnamurthy
Petitions Examiner
Office of Petitions

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) KOLS.144PA

First named inventor: Hallamaa

Application No.: 10/966,747 Art Unit: 2478

Filed: 10/15/2004 Examiner: Li, G.

Title: Device Management System

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☑ Other than small entity-fee $ 1620.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of RCE and amendment (identify type of reply):

☐ has been filed previously on _____.

☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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: Mail Stop Petition, 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

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. 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. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Erin Nichols Matkaiti/ Not of record in case -	May 12, 2011
Signature	Date
Erin Nichols Matkaiti	57,125
Type or Printed name	Registration Number, If applicable
8500 Normandale Lake, Blvd., Suite 320	952-232-6907
Address	Telephone Number
Minneapolis, MN 55437	
Address	

Enclosures:

☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: IDS

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date _____ Signature _____

Typed or printed name of person signing certificate _____

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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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Robert T. Love, et. al. :
Application No. 10/966,811 : ON PETITION
Filed: October 15, 2004 :
Attorney Docket No. CS22683RL D01 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 2011, to revive the above-identified application.

A review of the record discloses that the above application became abandoned for failure to timely pay the issue fee and publication fees on or before December 20, 2010. A Notice of Abandonment was mailed January 5, 2011.

The Office acknowledges receipt of $1,620 for treatment of the present petition and $810 for the filing of a Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) under 37 CFR 1.114 on April 28, 2011. However, in an application or patent, abandoned or lapsed for failure to pay the issue fee, publication fee or any portion thereof, the required reply must be the payment of the issue fee, publication fee or any outstanding balance thereof. *See* MPEP 711.03(c)(II)(A)(1). Therefore, the requisite issue fee of $1,510 and the publication fee of $300 have been charged to counsel's deposit account, as authorized in the RCE filed on April 28, 2011.

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

The application file is being forwarded to Technology Center AU 2468, for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the IDS submitted in accordance with 37 CFR 1.114.

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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FREDRIKSON & BYRON, P.A.
INTELLECTUAL PROPERTY GROUP
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS MN 55402

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of	:	
HSU, et al	:	
Application No. 10/966,836	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 43305.12.0.62.1 (fka 3200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the change of correspondence address cannot be accepted. The Office will either change the correspondence address of record to the most current address information provided for an 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 incompliance 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 updated 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 as indicated on the Request to Withdraw at this time.

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

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

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

cc: DERMATRENDS, INC.
3109 WEST 50TH STREET, #337
MINNEAPOLIS, MN 55410

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FREDRIKSON & BYRON, P.A.
INTELLECTUAL PROPERTY GROUP
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS MN 55402

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of	:	
HSU, et al	:	
Application No. 10/966,836	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 43305.12.0.62.1.1(FKA 3200	:	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 August 12, 2011.

The request is **APPROVED**.

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

The request was signed by Philip M. Goldman on behalf of the attorneys of record associated with Customer No. 22859.

The attorneys of record associated with Customer No. 22859 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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

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

cc: DERMATRENDS, INC.
3109 WEST 50TH STREET, #337
MINNEAPOLIS MN 55410

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/966,836	10/14/2004	Tsung-Min Hsu	43305.12.0.62.1 (fka 3200

CONFIRMATION NO. 7372

POWER OF ATTORNEY NOTICE

22859
FREDRIKSON & BYRON, P.A.
INTELLECTUAL PROPERTY GROUP
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

OC000000049418370

Date Mailed: 08/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2011.

- 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.

/dcgoodwyn/

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

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

MAILED
NOV 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Rogbert P. PATERNO et al.	:	
Application No. 10/966,852	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. TI-37787	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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, October 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 January 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a notice of appeal, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of October 20, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3694 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SEP 30 2011
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FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

In re Patent No. 7,111,014	:	
Issued: September 19, 2006	:	
Application No. 10/966,870	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No.: POU920020014US1	:	

This is a decision on the petition under 37 CFR 1.182 filed September 19, 2011.

The petition is **dismissed**.

By the instant petition, petitioner requests that the priority claim under 37 CFR 1.78(a)(3) to application serial number 10/077,129, now U.S. Patent No. 6,829,617 be reflected on the first page of the above-cited patent. Petitioner asserts that a proper benefit claim under 37 CFR 1.78 was present on October 15, 2004, and that the priority claim was reflected in USPTO records, but removed at some point. Petitioner requests that priority data be entered in USPTO records. Petitioner also requests that the original assignment of the above-cited patent be recorded to the assignee, International Business Machines Corporation.

Petitioner's argument has been considered, but is unavailing. A review of the application file history reveals that a proper priority claim under 37 CFR 1.78 was never made in this application. As petitioner states, the application transmittal sheet filed October 15, 2004, states that the above-cited application is a divisional application of application serial number 10/077,129 filed February 15, 2002. It is noted that 37 CFR 1.78(a)(2)(iiii) requires that the priority claim appear in the application data sheet or the first sentence of the specification following the title. Further, Section 201.11(III) of the MPEP states, in pertinent part:

> The third requirement of the statute is that the later-filed application must contain a specific reference to the prior application. This should appear as the first sentence of the specification following the title preferably as a separate paragraph (37 CFR 1.78(a)) and/or in an application data sheet (37 CFR 1.76).

The priority claim made on October 15, 2004, was not proper as it was found in the application transmittal sheet, rather than the Application Data Sheet or first sentence of the specification as required by 37 CFR 1.78. It is assumed that the priority information was entered initially and then removed after it was discovered that the presentation of the priority claim was not in compliance with 37 CFR 1.78. In view of the aforementioned, it would not be appropriate to enter the priority data pursuant to a petition under 37 CFR 1.182. Petitioner may file a petition under 37 CFR 1.78 and a request for Certificate of Correction to perfect the priority claim under 37 CFR 1.78.

In re Patent No. 7,111,014
Relative the petitioner's request to record the assignment to International Business Machines, petitioner must file the assignment and appropriate recordation documents with the Assignment Division. Questions regarding this should be directed to the Assignment Division.

Deposit account 09-0463 will be charged $400.00 for the instant petition fee.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,111,014
Issue Date: September 19, 2006
Application No. 10/966,870
Filed: October 15, 2004
Attorney Docket No. **POU920020014US1**

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

This is a decision on the petition, filed October 11, 2011, under 37 CFR 1.78(a)(3), seeking to correct a claim for priority under 35 U.S.C. § 120 by way of a certificate of correction.

The petition is **granted**.

The instant application was filed October 15, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

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

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Deposit account 09-0463 will be charged $1,410 for the surcharge as well as the $100 certificate of correction fee.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/966,870	10/15/2004	2162	1178	POU920020014US1	6	4

CONFIRMATION NO. 7407

CORRECTED FILING RECEIPT

23334
FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON, FL 33487

OC000000050418940

Date Mailed: 10/18/2011

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)

Wayne A. Sawdon, San Jose, CA;
Frank B. Schmuck, Campbell, CA;

Assignment For Published Patent Application

International Business Machines Corporation, Armonk, NY

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/077,129 02/15/2002 PAT 6,829,617

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: 11/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/966,870**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PROVIDING A SNAPSHOT OF A SUBJECT OF A FILE SYSTEM

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7186978
Issue Date: March 6,2007
Application No. 10967010
Filed: October 15,2004
Attorney Docket No. 003976/00007

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

This is a decision on the electronic petition, filed October 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 October 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)
7186978	2007-03-06	10967010	2004-10-15	003976/00007.1

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	/jcmaynard46208/	Date (YYYY-MM-DD)	2011-10-03
Name	Jeffrey C. Maynard	Registration Number	46208

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

MAILED
AUG 18 2011
OFFICE OF PETITIONS

CHRISTOPHER PAUL MITCHELL
888 16TH ST., NW
SUITE 800
WASHINGTON DC 20006

In re Application of BETTINGER, David S. Application No. 10/967,560 Filed: October 18, 2004 Attorney Docket No.: 0710.0001	DECISION DISMISSING PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 22, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification (page 1), following the title to include a reference to the prior-filed nonprovisional application. While a reference to the prior-filed nonprovisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

the claim for priority to the prior-filed nonprovisional application in the transmittal letter filed with the application, as shown by its inclusion on the application as published on March 3, 2005 as US Patent Application Publication no. 20050049971.

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

It is noted that the amendment 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 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).

In view of the above, the $1410.00 petition fee submitted is unnecessary and will be refunded to petitioner's credit card in due course.

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

David Buczo
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/967,560	10/18/2004	3621	820	0710.0001	17	1

CONFIRMATION NO. 8698

CORRECTED FILING RECEIPT

68542
CHRISTOPHER PAUL MITCHELL
888 16TH ST., NW
SUITE 800
WASHINGTON, DC 20006

OC000000049324179

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)
David S. Bettinger, Grosse Ile, MI;

Power of Attorney: None

Domestic Priority data as claimed by applicant
This application is a CIP of 09/504,657 02/14/2000 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: 11/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/967,560**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

INTERNET NEWS COMPENSATION SYSTEM

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DAVID ANDREW D'ZMURA
P.O. BOX 1845
BORREGO SPRINGS, CA 92004-1845

In re Patent of D'Zmura	:	
Patent No. 7,195,488	:	
Issue Date: March 27, 2007	:	Decision on Petition
Application No. 10/967,625	:	
Filing Date: October 18, 2004	:	
For: Astrological Tarot and Alpha-Numerology	:	

This a decision in response to the petition filed June 25, 2010, which is being treated as a petition under 37 C.F.R. § 1.182 requesting issuance of duplicate letters patent. The petition is also being treated as a petition under 37 C.F.R. § 1.183.

The petition under 37 C.F.R. § 1.182 is **dismissed**.

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

Petitioner filed a single petition on June 25, 2010. The petition requests the Office:

1. Issue duplicate letters patent for all of Petitioner's patents,
2. Withdraw the holding of abandonment for all of Petitioner's abandoned divisional and provisional applications, and
3. "Advise the US Dept. Commerce, US Treasury and Executive Cabinet to License ... my Intangible Wealth."

When a party wishes to address an issue involving more than one application or patent, a separate petition must be filed in each of the applications or patents. As a courtesy, the Office has taken steps resulting in a copy of the petition being placed in each of the patent files. However, if Petitioner wishes to request reconsideration of more than one of the decisions, a separate request must be filed for each patent.

Duplicate Letters Patent

The Petition Under 37 C.F.R. § 1.182

Duplicate letters patent may be obtained by filing a petition under 37 C.F.R. § 1.182. Therefore, the Office has treated the petition as a petition under 37 C.F.R. § 1.182.

A petition under 37 C.F.R. § 1.182 for duplicate letters patent must:

(1) Establish the original letters patent was never received at the address of record, or
(2) Include a petition fee of $400.

The petition does not assert Petitioner never received the original letters patent and Petitioner has not supplied the $400 fee. Therefore, the petition under 37 C.F.R. § 1.182 is dismissed.

The Petition Under 37 C.F.R. § 1.183

Petitioner appears to be seeking waiver of the requirement to pay the $400 fee for the petition under 37 C.F.R. § 1.182. Therefore, the Office has treated the petition, in part, as a petition under 37 C.F.R. § 1.183 requesting waiver of the requirement in 37 C.F.R. § 1.182 for any petition under that section to be accompanied by the $400 fee set forth in 37 C.F.R. § 1.17(f).

37 C.F.R. § 1.183 states, with emphasis added,

> 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.... Any petition under this section *must be* accompanied by the *petition fee set forth in § 1.17(f).*

A petition under 37 C.F.R. § 1.183 must be accompanied by payment of a $400 fee, which a party can argue should be waived and refunded in the petition. Petitioner has not submitted the $400 fee. Therefore, the petition under 37 C.F.R. § 1.183 is dismissed.

As a courtesy, the Office will briefly discuss the requirements of 37 C.F.R. § 1.183 and some of the facts in this case.

In order for a regulation to be waived, justice must require the waiver of the regulation. Justice does not require waiver of a regulation when enforcement of the regulation will not impair the legal rights of a party. Patents are intangible assets and patent rights exist independently of any letters patent. In other words, a copy of a patent grant only has symbolic value. Therefore, the loss of letters patent and the failure to receive duplicate letters patent does *not* impair the legal rights of any party.

Even if a party could be harmed by not possessing any copies of a patent, such harm could be remedied without a need for issuance of duplicate letters patent. For example, a party can obtain a certified copy of a patent for $25 and an uncertified copy of a patent for $3. Additional information concerning ordering certified or uncertified copies of a patent can be obtained by calling 1-800-972-6382. In addition to ordering copies of patents from the Office, one can find and print copies of patents from multiple sites on the internet.

The Abandoned Status of Multiple Applications

The petition requests the Office withdraw the holding of abandonment for all of Petitioner's abandoned divisional and provisional applications.

Based on Office records, Petitioner's divisional applications appear to consist of Application No. 10/509,085 and Application Nos. 10/681,356 to 10/681,367. Petitioner appears to have filed about 16 provisional applications.

The Office will not consider the request to withdraw the holding of abandonment in the divisional applications and the provisional applications, because petitions to withdraw the holding of abandonment do not appear to have been in any of the cases.

If petitioner wishes to argue the holding of abandonment should be withdrawn for a specific application, a petition to withdrawn the holding of abandonment must be filed in that specific application.

If Petitioner wishes to argue the holding of abandonment should be withdrawn for multiple applications, separate petitions must be filed in each application.

Request for the Office to Advise Agencies to License Patent

In general, each federal agency within the United States makes the agency's own decisions with respect to the purchase and/or licensing of patents and the United States Patent and Trademark Office does not have the authority to force other agencies to license a patent. Therefore, the Office is unable to advise the Department of Commerce or any other agency to license the patent.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition."

Further correspondence with respect to this matter may be submitted as follows:

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

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

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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OFFICE OF PETITIONS

DAVID ANDREW D'ZMURA
P.O. BOX 1845
BORREGO SPRINGS, CA 92004-1845

In re Patent of D'Zmura	:	
Patent No. 7,195,488	:	
Issue Date: March 27, 2007	:	Decision on Petition
Application No. 10/967,625	:	
Filing Date: October 18, 2004	:	
For: Astrological Tarot and Alpha-Numerology	:	

This a decision in response to the petition filed February 7, 2011, which is being treated as a petition under 37 C.F.R. § 1.181.

The petition is **dismissed**.

Background

A single petition was filed on June 25, 2010. The petition pertained to the following five patents:

1. Patent No. 7,083,415,
2. Patent No. 6,974,325,
3. Patent No. 7,236,952,
4. Patent No. 6,776,618, and
5. Patent No. 7,195,488.

As a courtesy, the Office placed a copy of the petition in the file for each of the five patents.

The first page of the June 25, 2010 petition included the language, "Petition to the Director, under 1.181(a) Due to No Fault of My Own."

The June 25, 2010 petition requested the Office:

1. Issue duplicate letters patent for all of Petitioner's patents,
2. Withdraw the holding of abandonment for all of Petitioner's abandoned divisional and provisional applications, and
3. "Advise the US Dept. Commerce, US Treasury and Executive Cabinet to License ... my Intangible Wealth."

The Office believed Petitioner's requests for issuance of duplicate letters patent without requiring payment of any fee fell within the scope of 37 C.F.R. §§ 1.182 and 1.183. As a result, the Office treated the petition as a petition under 37 C.F.R. § 1.182 and a petition under 37 C.F.R. § 1.183.

On December 10, 2010, the Office mailed decisions dismissing the petitions. A separate decision was mailed for each of the five patents.

Although portions of the instant petition are not legible, the petition appears to be requesting the Office consider Petitioner's request for duplicate letters patent under 37 C.F.R. § 1.181(a).

Discussion

Pursuant to 37 C.F.R. § 1.181(a)(3), a party may filed a petition "[t]o invoke the supervisory authority of the Director in appropriate circumstances." In essence, the petition allows one, in appropriate circumstances, to have the Office review the propriety of an action taken by an Office employee.

Petitioner is not seeking for the Office to review the propriety of an action taken by an Office employee. Instead, Petitioner is seeking to have the Office issue duplicate letters patent. Therefore, relief is not warranted under 37 C.F.R. § 1.181(a)(3).

The prior decision informed Petitioner a petition under 37 C.F.R. § 1.182 must be filed in order to obtain duplicate letters patent. The decision also stated such a petition must either establish the original letters patent were never received or include a $400 petition fee.

Petitioner has not asserted the original letters patent were never received or submitted the required $400 petition fee. Therefore, the request for issuance of duplicate letters patent is dismissed.

The prior decision indicated Petitioner should *not* file a single petition pertaining to multiple patents in the future. Specifically, the decision stated, with emphasis in the original,

> When a party wishes to address an issue involving more than one application or patent, a separate petition must be filed in each of the applications or patents. As a courtesy, the Office has taken steps resulting in a copy of the petition being placed in each of the patent files. However, if Petitioner wishes to request reconsideration of more than one of the decisions, a separate request must be filed for each patent.

Petitioner appears to have filed one copy of the instant petition even though it pertains to five patents. As a courtesy, the Office has placed copies of the petition into each of the five files. However, if Petitioner files a request for reconsideration of the instant decision, Petitioner must file a separate copy of the request for each of the patents.

As discussed in the prior decision, the requirement for separate petitions to be filed different cases also applies to petitions pertaining to applications which have not issued as a patent. For

example, if Petitioner wishes to argue the holding of abandonment should be withdrawn for more than one of Petitioner's applications, a separate petition to withdraw the holding of abandonment must be filed in each application.

The Office strongly recommends any documents Petitioner files with the Office in the future be accompanied by a cover letter clearly and prominently identifying, at a minimum, the application number, the application's filing date, and the title of the invention. Such a cover letter will help the Office ensure the documents are matched with the proper file. A copy of a form which may be used as the cover letter is enclosed.

Further correspondence with respect to this matter may be submitted as follows:

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

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

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: Form PTO/SB/21

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FLEIT GIBBONS GUTMAN BONGINI & BIANCO PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Michael DIEMER et al.	:	
Application No. 10/967,664	:	DECISION ON PETITION
Filed: October 18, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 7700-X04-014	:	

This is a decision on the petition under 37 CFR 1.55(c), filed May 19, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign German Applications No's. 20021949.9, filed December 23, 2000 and 20206191.4, filed April 18, 2002.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) 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); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record indicates that there is a discrepancy in the foreign application numbers provided on the ADS filed January 08, 2010 and the petition filed May 19, 2010.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

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

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

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

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SUITE 115
MIAMI FL 33180

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OFFICE OF PETITIONS

In re Application of	:	
Michael DIEMER et al.	:	
Application No. 10/967,664	:	DECISION ON PETITION
Filed: October 18, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. **7700-X04-014**	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed September 10, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign German Applications No's. 20021949.9, filed December 23, 2000 and 20206191.4, filed April 18, 2002.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) 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); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on October 18, 2004, which is after November 29, 2000 and within 12 months of April 18, 2002 (the filing date of the foreign application to which benefit is now being claimed). On January 14, 2008, a Corrected Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) 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 foreign application, accompanies this decision on petition.

This application is being referred to Office of Data Management.

Any inquiries directly pertaining to this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/967,664	10/18/2004	3742	2535	7700-X04-014	67	9

CONFIRMATION NO. 7149

CORRECTED FILING RECEIPT

27317
Fleit Gibbons Gutman Bongini & Bianco PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

OC000000044087872

Date Mailed: 11/03/2010

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)

Michael Diemer, Jonkoping, SWEDEN;
Stephan Diemer, Alsheim, GERMANY;

Assignment For Published Patent Application

BRAINCOM AG, MUNICH, GERMANY

Power of Attorney:

Martin Fleit--16900
Robert Kain Jr--30648
Jose Gutman--35171
Jon Gibbons--37333
Stephen Bongini--40917
Paul Bianco--43500

Domestic Priority data as claimed by applicant

This application is a CON of PCT/DE03/01309 04/22/2003
and is a CIP of 10/464,822 06/18/2003 PAT 7,250,586 *
which is a CON of PCT/DE01/04879 12/21/2001
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

GERMANY 200 21 949.9 12/23/2000
GERMANY 202 06 191.4 04/18/2002

If Required, Foreign Filing License Granted: 10/19/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/967,664**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

HEATING DEVICE AND METHOD FOR THE PRODUCTION THEREOF AND HEATABLE OBJECT AND METHOD FOR PRODUCING SAME

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

1-11-2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,599,961 B2
Serial No. : 10/967,727
Inventor(s) : Tedd Dideriksen, et. al.
Issued : October 6, 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.

Respecting the alleged error in col. 16, line 35 is a change made in an Examiner's Amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the base issue fee, the requested change will not be included in the Certificate.

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period with the sum of $100.00

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

CPA Global
P.O. Box 52050
Minneapolis, MN 55402

eJ

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Demeyere et al.	:	
Application No. 10/967,758	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. 9389	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to reply in a timely manner to the final Office action mailed March 1, 2010. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 2, 2010.

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

With respect to item (1), petitioner has failed to submit the required reply. 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). Petitioner has failed to submit any proper reply.

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

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

DEC 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Demeyere et al.	:	
Application No. 10/967,758	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. 9389	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, March 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation, (2) the petition fee of $1,620.00 (previously paid October 13, 2010), 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. 12/793,912, filed June 4, 2010.

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

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

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
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Dorsey & Whitney, LLP
Intellectual Property Department
1400 Wewatta Street
Suite 400
Denver, CO 80202-5549

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert Keele, et. al.	:	
Application No. 10/967,769	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW FROM
Attorney Docket No. 190850/US/2	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed April 26, 2011.

The request is **APPROVED**.

The request was signed by S. Craig Hemenway on behalf of himself and all attorneys/agents associated with Customer Number 20686. Therefore, Craig Hemenway and all the attorneys/agents associated with Customer Number 20686 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

This application became abandoned by operation of the law for failure to timely respond to the outstanding Office action mailed on November 15, 2010.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Park Media, LLC
1780 Moriah Woods, Suite 1
Memphis, TN 38117

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/967,769	10/18/2004	Robert Keele	190850/US/2

CONFIRMATION NO. 8041

POWER OF ATTORNEY NOTICE

OC000000047783414

20686
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
1400 Wewatta Street
Suite 400
DENVER, CO 80202-5549

Date Mailed: 05/20/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2011.

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

/amsmith/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HASSE & NESBITT LLC
8837 CHAPEL SUARE DRIVE
SUITE C
CINCINNATI OH 45249

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Jon R. Anfinsen et al	:	
Application No. 10/967,800	:	DECISION GRANTING PETITION
Filed: October 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TCI-004M	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 12, 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 13, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1789 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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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YARON MAYER
21 AHAD HAAM ST.
JERUSALEM 92151 IL ISRAEL

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Yaron Mayer, et al.	:	
Application No. 10/968,022	:	DECISION ON PETITION
Filed: October 20, 2004	:	
	:	

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

The petition is **GRANTED**.
The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 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 Notice of Abandonment was mailed July 31, 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.

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

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

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2434 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **JOSEH L. FELBER**
32 HABARZEL STREET
TEL AVIV 69710
ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Kalloo et al.	:	DECISION ON PETITION
Application No. 10/968,028	:	TO WITHDRAW
Filed: October 20, 2004	:	FROM RECORD
Attorney Docket No. 2784-37	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 15, 2010.

The request is **NOT APPROVED**.

The Office requires that practitioner(s) certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

Further, the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b). The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor.

In view of the above the request cannot be approved at this time.

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

There is an outstanding Final Office action mailed August 2, 2010, that requires a reply from the applicant.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosure: Form PTO/SB/83 Request for Withdrawal as Attorney or Agent and Change of Correspondence Address.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT LLP
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
MAR 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,837,625	:	
Issue Date: November 23, 2010	:	
Application No. 10/968,095	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. 260614US2X	:	

This is a decision on the "PETITION FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.183", filed December 10, 2010.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

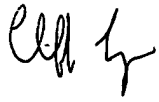
(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

Office records indicate that the Certificate of Corrections Branch already mailed the requested certificate of correction on January 18, 2011.

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



Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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MAILED
MAY 25 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,408,910	:	
Issue Date: August 5, 2008	:	
Application No. 10/968,152	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. 016778-0483	:	

This is a decision on the Request For Reconsideration Certificate Of Correction Pursuant To 37 C.F.R. §1.323 With Request Under 37 CFR 3.81(b), filed January 11, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (Modified PTO/SB/44) was submitted with Petition.

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

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

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

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

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

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,408,910.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Kalloo et al.	:	DECISION ON PETITION
Application No. 10/968,168	:	TO WITHDRAW
Filed: October 20, 2004	:	FROM RECORD
Attorney Docket No. 2784-37	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 15, 2010.

The request is **NOT APPROVED**.

The Office requires that practitioner(s) certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

Further, the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b). The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor.

In view of the above the request cannot be approved at this time.

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

There is an outstanding Final Office action mailed August 2, 2010, that requires a reply from the applicant.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosure: Form PTO/SB/83 Request for Withdrawal as Attorney or Agent and Change of Correspondence Address.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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AUG 04 2010

OFFICE OF PETITIONS

In re Patent No. 7660293	:	
Issue Date: 02/09/2010	:	
Application Number: 10/968185	:	ON PETITION
Filing or 371(c) Date: 10/20/2004	:	
Attorney Docket Number: 016778-0482	:	

This is a decision on the petition filed May 7, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] 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**.

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 (571) 272-4200.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110529

DATE : May 29, 2011

TO SPE OF : ART UNIT 3717

SUBJECT : Request for Certificate of Correction on Patent No.: 7780525

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:

/MELBA BUMGARNER/
Supervisory Patent Examiner.Art Unit 3717

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)
7265194	2007-09-04	10968370	2004-10-18	038559-0311985

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David H. Jaffer/	Date (YYYY-MM-DD)	2011-10-25
Name	DAVID H. JAFFER	Registration Number	32243

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 7265194
Issue Date: September 4,2007
Application No. 10968370
Filed: October 18,2004
Attorney Docket No. 038559-0311985

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

This is a decision on the electronic petition, filed October 25,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 25,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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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UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN:GC-62 (CHI), MS 6F-067
WASHINGTON DC 20585-0162

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Eliezer Huberman et al :
Application No. 10/968,385 : ON PETITION
Filed: October 18,2004 :
Attorney Docket No. S-104,705 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 25, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 1, 2008, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 2, 2008.

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

By facsimile: (571) 272-8300
ATTN: Office of Petitions

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/968,385	Applicant(s) HUBERMAN ET AL.
	Examiner RAM R. SHUKLA	Art Unit 1644

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

THE REPLY FILED 25 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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: *6-10,27 and 28*.
   Claim(s) withdrawn from consideration: *1-5, 11-26*.

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: The rejections of record are maintained for reasons set forth in the final rejection of 8/1/2008..
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ram R. Shukla/
Supervisory Patent Examiner, Art Unit 1644

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (CHI), MS 6F – 067
WASHINGTON DC 20585-0162

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NOV 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Eliezer Huberman et al	:	
Application No. 10/968,385	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. S-104,705	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed August 1, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1644 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

MAILED

DEC 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Gann, et al.	:	
Application No. 10/968,572	:	ON REQUEST FOR
Filed: October 19, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 088245-9290	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed September 2, 2010. Applicants believe that they should be accorded an additional PTA of 125 days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment 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 **three hundred four (304) days** (478 days of PTO delay, reduced by 174 (8+34+3+36+72+21) days of Applicant delay).

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

[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

Application Number*: 10968572 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10968572

Application Filing Date	10/19/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	478
A Delays	478	PTO Manual Adjustment	0
B Delays	0	Applicant Delay (APPL)	174
C Delays	0	Total PTA (days)	304

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
98	06/07/2010		MN/=.	Mail Notice of Allowance			0
97	06/04/2010		IREV	Issue Revision Completed			0
96	06/04/2010		N/=.	Notice of Allowance Data Verification Completed			0
95	06/04/2010		DVER	Document Verification			0
94	06/03/2010		CNTA	Notice of Allowability			0
90	04/20/2010		IDSC	Information Disclosure Statement considered			0
89	04/20/2010	03/30/2010	M844	Information Disclosure Statement (IDS) Filed		21	84
88	04/20/2010		RCAP	Reference capture on IDS			0
87	04/20/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
86	04/06/2010		FWDX	Date Forwarded to Examiner			0
83	04/06/2010		ABN9	Disposal for a RCE / CPA / R129			0
85	03/30/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
84	03/30/2010		RCEX	Request for Continued Examination (RCE)			0
82	03/30/2010		BRCE	Workflow - Request for RCE - Begin			0
81	03/29/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
80	03/29/2010		CTAV	Advisory Action (PTOL-303)			0
79	03/24/2010		FWDX	Date Forwarded to Examiner			0
78	03/22/2010		A.NE	Amendment after Final Rejection			0
76	01/28/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
75	01/28/2010		CTFR	Final Rejection			0
77	01/20/2010	11/09/2009	M844	Information Disclosure Statement (IDS) Filed		72	70
74	01/20/2010		IDSC	Information Disclosure Statement considered			0
72	01/20/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
71	12/10/2009		FWDX	Date Forwarded to Examiner			0
70	11/09/2009		A...	Response after Non-Final Action			0
73	08/26/2009		IDSC	Information Disclosure Statement considered			0
68	08/26/2009		RCAP	Reference capture on IDS			0
67	08/26/2009		M844	Information Disclosure Statement (IDS) Filed			0
66	08/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
65	08/13/2009		MCTNF	Mail Non-Final Rejection			0
64	08/13/2009		CTNF	Non-Final Rejection			0
69	07/29/2009		M844	Information Disclosure Statement (IDS) Filed			0
62	07/29/2009		IDSC	Information Disclosure Statement considered			0
60	07/29/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
57	07/10/2009		FWDX	Date Forwarded to Examiner			0
55	07/10/2009		FWDX	Date Forwarded to Examiner			0
53	07/10/2009		ABN9	Disposal for a RCE / CPA / R129			0
63	07/02/2009		IDSC	Information Disclosure Statement considered			0
59	07/02/2009		RCAP	Reference capture on IDS			0
58	07/02/2009		M844	Information Disclosure Statement (IDS) Filed			0
56	07/02/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
54	07/02/2009		RCEX	Request for Continued Examination (RCE)			0
52	07/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
51	07/02/2009		BRCE	Workflow - Request for RCE - Begin			0
61	06/12/2009		LET.	Miscellaneous Incoming Letter			0
50	05/15/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
49	05/13/2009		C.AD	Correspondence Address Change			0
48	05/07/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
47	05/07/2009		CTFR	Final Rejection			0
45	03/12/2009		FWDX	Date Forwarded to Examiner			0
44	01/15/2009	12/10/2008	A...	Response after Non-Final Action		36	38
43	01/15/2009		XT/G	Request for Extension of Time - Granted			0
38	09/10/2008		MCTNF	Mail Non-Final Rejection			0
37	09/09/2008		CTNF	Non-Final Rejection			0
36	08/29/2008		FWDX	Date Forwarded to Examiner			0
35	08/15/2008	08/12/2008	ELC.	Response to Election / Restriction Filed		3	32
34	08/15/2008		XT/G	Request for Extension of Time - Granted			0
33	07/22/2008		DOCK	Case Docketed to Examiner in GAU			0
32	05/12/2008		MCTRS	Mail Restriction Requirement			0
31	05/09/2008		CTRS	Requirement for Restriction / Election			0
30	03/07/2008		FWDX	Date Forwarded to Examiner			0
28	03/07/2008		FWDX	Date Forwarded to Examiner			0
26	03/07/2008		ABN9	Disposal for a RCE / CPA / R129			0
29	02/21/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
27	02/21/2008	01/18/2008	RCEX	Request for Continued Examination (RCE)		34	21
25	02/21/2008		XT/G	Request for Extension of Time - Granted			0
24	02/21/2008		TDP	terminal disclaimer fee paid			0

23	02/21/2008		DIST	Terminal Disclaimer Filed			0
22	02/21/2008		BRCE	Workflow - Request for RCE - Begin			0
21	10/18/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
20	10/15/2007		CTFR	Final Rejection			0
19	07/25/2007		FWDX	Date Forwarded to Examiner			0
18	07/19/2007	07/11/2007	A...	Response after Non-Final Action		8	15
17	07/19/2007		XT/G	Request for Extension of Time - Granted			0
16	05/24/2007		DOCK	Case Docketed to Examiner in GAU			0
15	04/11/2007	12/19/2005	MCTNF	Mail Non-Final Rejection	478		-1
14	04/02/2007		CTNF	Non-Final Rejection			0
13	09/13/2005		DOCK	Case Docketed to Examiner in GAU			0
12	08/11/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
11	08/11/2005		DOCK	Case Docketed to Examiner in GAU			0
9	01/07/2005		COMP	Application Is Now Complete			0
10	01/06/2005		WROIPE	Application Return from OIPE			0
8	01/06/2005		ROIPE	Application Return TO OIPE			0
6	01/06/2005		COMP	Application Is Now Complete			0
7	01/05/2005		OIPE	Application Dispatched from OIPE			0
5	12/27/2004		L128	Cleared by L&R (LARS)			0
4	11/22/2004		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	11/22/2004		CLSS	CASE CLASSIFIED BY OIPE			0
2	11/11/2004		SCAN	IFW Scan & PACR Auto Security Review			0
1	10/19/2004		IEXX	Initial Exam Team nn			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120117

DATE : January 17, 2012

TO SPE OF : ART UNIT 3772

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

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/PATRICIA BIANCO/
Supervisory Patent Examiner.Art Unit 3772

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

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Stephanie A. Frater	:	
Application No. 10/968,681	:	DECISION ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. 04-832	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 10, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 11, 2008. The Notice of Abandonment was mailed May 12, 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 election, (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 3687 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

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McDermott Will & Emery LLP
11682 El Camino Real, Suite 400
San Diego, CA 92130

Mail Date: 08/16/2010

Applicant	: Rajiv Vijayan	: DECISION ON REQUEST FOR
Patent Number	: 7660275	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/968,787	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **846** 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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Alexandria, VA 22313-1450
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CHARLES T. RIGGS JR., ESQ.
PATULA & ASSOCIATES, P.C.
14TH FLOOR
116 S. MICHIGAN AVE.
CHICAGO, IL 60603

MAILED

AUG 19 2011

OFFICE OF PETITIONS

In re Application of	:
Miller et al.	:
Application No. 10/969,112	: DECISION GRANTING PETITION
Filed: October 19, 2004	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 5373/55856	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 8, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on March 24, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to Alicia Kelley-Collier at (571) 272-6059.

This matter is being referred to Technology Center Art Unit 2165 for appropriate action on the amendment submitted August 8, 2011, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
10/969,112	10/19/2004	2165	672	5373/55856	41	5

CONFIRMATION NO. 3745

CORRECTED FILING RECEIPT

Charles T. Riggs Jr., Esq.
PATULA & ASSOCIATES, P.C.
14th Floor
116 S. Michigan Ave.
Chicago, IL 60603

OC000000049432535

Date Mailed: 08/19/2011

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)

Todd Miller, New York, NY;
Brian Schelp, New Hyde Park, NY;
Paul Duncan, Apalachin, NY;

Power of Attorney:
Timothy Patula--30791
Charles Riggs Jr--37430

Domestic Priority data as claimed by applicant

This application is a DIV of 10/669,312 09/23/2003 PAT 6,807,539
which is a DIV of 09/844,787 04/27/2001 ABN
which claims benefit of 60/200,044 04/27/2000

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: 12/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/969,112**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method and system for retrieving search results from multiple disparate databases

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/969,156	10/20/2004	Steven D. Alten	ITL.0316C1US (P7999C)	4391

21906 7590 05/25/2011
TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

EXAMINER
STRONCZER, RYAN S

ART UNIT	PAPER NUMBER
2425	

MAIL DATE	DELIVERY MODE
05/25/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Timothy Trop
Trop, Pruner, & Hu, P.C.
1616 S Voss Road, Suite 750
Houston TX 77057-2631

In re Application of:
Allen
Application No. 10/969156
Filed: October 20, 2004
For: Displaying Enhanced Content Information on a Remote Control Unit

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

This is a decision on the petition, filed April 12, 2011, under 37 CFR § 1.181 to reconsider and reverse the examiner's premature Final rejection mailed January 19, 2011.

The petition is **DISMISSED**.

RULES AND REGULATIONS

MPEP § 706.07(a) states in part that:

> Under present practice, second or any subsequent action on the merits ***shall*** be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record.

MPEP § 706.07(d) states in part that:

> If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection. Once the finality of the Office action has been withdrawn, the next Office action may be made final if the conditions set forth in MPEP § 706.07(a) are met.

MPEP § 707.07(f) states in part that:

> In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.

> Where the requirements are traversed, or suspension thereof requested, the examiner should make *proper reference thereto in his or her action on the amendment*. Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.
>
> ...
>
> If it is the examiner's considered opinion that the asserted advantages are not sufficient to overcome the rejection(s) of record, he or she should state the reasons for his or her position in the record, ***preferably*** in the action following the assertion or argument relative to such advantages. By so doing the applicant will know that the asserted advantages have actually been considered by the examiner and, if appeal is taken, the Board of Patent Appeals and Interferences will also be advised.

MPEP §706 states:

> The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.

37 C.F.R. § 104 states, in part:

> (c) Rejection of claims.
>
> .....
>
> (2) In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, ***if not apparent***, must be clearly explained and each rejected claim specified.

MPEP § 1201 states, in part:

> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

37 C.F.R. § 1.181(f) states, in part:

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

RELIEF REQUESTED

In the petition filed April 12, 2011, petitioner seeks relief from the Final office action mailed January 19, 2011. Petitioner alleges that the examiner's Final Action is improper as the art of record was insufficient to make out a prima facia rejection.

OPINON

Per MPEP 706, the goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. A review of the file history reveals that the examiner has articulated his rejection of claim 26-29 and 32 under 35 USC 103(a) as being obvious over Darbe et al. in view of Wharton et al.

Per MPEP 707.07 (f) states the examiner should considers applicant's arguments and state the reasons for his or her position in the record. In this case, the examiner took notes of the arguments, repeated his rejections and answered the substance of the arguments in the "Response to Arguments" (pages 2-4) of the Final office action.

Based on the review of the prosecution history, no new ground of rejection was introduced and the examiner addressed the substance of the applicant's arguments, it is concluded that the **Final** Action of January 19, 2011 is **proper.**

As stated in the petition "the rejection of claim 27 does not make out a prima facia rejection as a result the final rejection is improper as claim 27 calls for recognizing code indicative of an advertisement and this limitation has never been addressed in the prosecution to date"; Page 8 the first full paragraph states that "recognizing said code is taught by column 6 of Wharton and the next paragraph on page 8 of the final rejection discusses the advertisement; this goes to show that there is a fundamental disagreement between the examiner and petitioner on the what the references teach. Such a disagreement is **appealable, not a petitionable matter.**

Pursuant to MPEP § 1201, the petition is **DISMISSED.**

Any inquiry concerning this decision should be directed to Tod Swann whose telephone number is (571) 272-3612. A second point of contact is QAS Kim Huynh whose telephone number is (571) 272-4147.

__/Tod Swann/_____
QAS
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of :
Yuancheng Ren et al. :
Patent No. 7,184,281 : NOTICE
Application No. 10/969,215 :
Filed: October 21, 2004 :
Attorney Docket No. **01640481AA**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 28, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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Alexandria, VA 22313-1450
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David T. Yang, Esq.
Morrison & Foerster, LLP
Suite 3500
555 West Fifth Street
Los Angeles, CA 90013-1024

MAILED

DEC 28 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,098,834 :
Issue Date: August 29, 2006 :
Application No. 10/969,283 :
Filed: October 20, 2004 :
Patentee(s): Lloyd F. Linder, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on November 23, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of David G. Miranda appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

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

It is noted that the address given in the present petition differs from the correspondence address of record. Therefore, a courtesy copy of this decision is being mailed to the address given in the present petition.

This patented file is being forwarded to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: David G. Miranda
Raytheon Company
870 Winter Street
Waltham, MA 02451

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stanford University Office of Technology
Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

MAILED
MAR 02 2012
OFFICE OF PETITIONS

In re Application of	:	
Shan et al.	:	
Application No. 10/969314	:	
Filing or 371(c) Date: 10/19/2004	:	ON PETITION
Pat. Num.: 7320788	:	
Issue Date: 01/22/2008	:	
Title of Invention:	:	
ENZYME TREATMENT OF	:	
FOODSTUFFS FOR CELIAC SPRUE	:	

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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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JAMES C. EAVES JR.
GREENEBAUM DOLL & MCDONALD PLLC
3500 NATIONAL CITY TOWER
101 SOUTH FIFTH STREET
LOUISVILLE KY 40202

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Russell Perry Brown	:	
Application No. 10/969,548	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. **118006.000001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 28, 2011.

The request is **APPROVED**.

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

The request was signed by James C. Eaves Jr. on behalf of all attorneys of record who are associated with Customer Number 23828.

All attorneys/agents associated with Customer Number 23828 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Russell Perry Brown at the address indicated below.

There is an outstanding Office action mailed July 15, 2011, that requires a reply from the applicant.

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Russell Perry Brown
540 Chinoe Road
Lexington, KY 40502

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/969,548	10/19/2004	Russell Perry Brown	118006.000001

CONFIRMATION NO. 5572

POWER OF ATTORNEY NOTICE

OC000000050264777

23828
JAMES C. EAVES JR.
GREENEBAUM DOLL & MCDONALD PLLC
3500 NATIONAL CITY TOWER
101 SOUTH FIFTH STREET
LOUISVILLE, KY 40202

Date Mailed: 10/07/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2011.

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

/jlburke/

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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JAN 05 2011

OFFICE OF PETITIONS

In re Application of
Jeroen C. Verheijen et al.
Application No. 10/969,796
Filed: October 19, 2004
Attorney Docket No. 34251-501

: 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 November 22, 2010. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from two hundred fifty (250) days to two hundred eighty (280) days.

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

On August 23, 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 250 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 30 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on April 16, 2010 after the filing of a response to a non-final Office Action on March 17, 2010.

A review of the record reveals that on March 17, 2010 applicants filed a response to the non-final Office action mailed January 15, 2010. Then on April 16, 2010, 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.

Applicant argues however, that the IDS filed April 16, 2010 included a certification statement, pursuant to 37 C.F.R. § 1.704(d), and should "not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 C.F.R. § 1.704(c)(8)."

---

[1] PALM records indicate that the Issue Fee was also received on November 22, 2010.

Applicant's argument with respect to the Information Disclosure Statement has been considered, but not found persuasive. The IDS filed April 16, 2010 was filed under circumstances that constitute a failure to engage within the meaning of 37 CFR 1.704(c)(8). Entry of the period of reduction of 30 days is warranted.

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:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;
>
> However, 37 CFR 1.704(d) provides that:
>
> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In this instance, the record supports a conclusion that the IDS was received April 16, 2010 however, the IDS did not include a proper §1.704(d) statement. The statement purported to be in compliance with 37 CFR 1.704(d) does not track the required language of 1.704(d). The required statement states, in pertinent part, 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.

Applicants are reminded that § 1.704(d) was revised, effective May 24, 2004. This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004. Moreover, the statement among other things must state that the IDS was first cited in "any" communication, not a communication. As the statement was not proper, entry of the reduction of 30 days was warranted and will not be removed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 250 days.

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 Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

MAY 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,897,639	:
Issued: March 1, 2011	: DECISION ON REQUEST FOR
Application No. 10/969,796	: RECONSIDERATION OF
Filed: October 19, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. **34251-501**	:

This is a decision on the AREQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. ' 1.705(d)@ filed April 29, 2011.

The request is **DISMISSED.**

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

On March 1, 2011, the above-identified application matured into U.S. Patent No. 7,897,639 with a revised patent term adjustment of 405 days. On April 29, 2011, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 420 days.

Patentee disputes the reduction of 15 days for applicant delay under 37 C.F.R. ' 1.704(c)(10) and argues that the Information Disclosure Statement ("the IDS") filed September 24, 2010 included a proper statement under 37 C.F.R. ' 1.704(d). Patentee hereby reiterates that each item of information contained in the September 24, 2010 IDS 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 Section 1.56(c) more than thirty days prior to the filing of the IDS.

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

A review of the file reveals that 15 days was deducted for applicant delay for the filing of the IDS on September 24, 2010, pursuant to 37 C.F.R. ' 1.704(c)(10) not 37 C.F.R. ' 1.704(c)(8) as the IDS was filed after the mailing of the Notice of Allowance on August 23, 2010.

37 CFR ' 1.704(c)(10) provides that:

> Submission of an amendment under '_1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in ' 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under ' 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under ' 1.312 or such other paper;
> or
> (ii) Four months;

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

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) B Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a ANotice of Allowance@ is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner=s reasons for allowance or a request to correct an error or omission in the ANotice of Allowance@ or ANotice of Allowability;@ and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

In view thereof, the patent term adjustment indicated in the patent is properly reflected. The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e).

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

/Patricia Faison-Ball /

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BOSTON MA 02111

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JUL 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,897,639
Issued: March 1, 2011
Application No. 10/969,796
Filed: October 19, 2004
Attorney Docket No. **34251-501**

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

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed June 10, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 405 days to 420 days

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

On March 1, 2011, the above-identified application matured into U.S. Patent No. 7,897,639 with a revised patent term adjustment of 405 days. On April 29, 2011, patentees timely submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 420 days.

Patentee disputed the reduction of 15 days for applicant delay under 37 C.F.R. § 1.704(c)(10) and argued that the Information Disclosure Statement ("the IDS") filed September 24, 2010 included a proper statement under 37 C.F.R. § 1.704(d).

Patentee's argument was considered but not found to be persuasive because notwithstanding the statement under 37 C.F.R. § 1.704(d), the IDS was filed after the mailing of the Notice of Allowance and thus subject to the provisions of 37 C.F.R. § 1.704(c)(8) and not 37 C.F.R. § 1.704(c)(10)[1].

---

[1]37 CFR § 1.704(c)(10) provides that:

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

Patentee hereby reiterates that each item of information contained in the September 24, 2010 IDS 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 Section 1.56(c) more than thirty days prior to the filing of the IDS.

Patentee's argument has been re-considered. The reduction of 15 days has been found to be incorrect. A review of the file, as stated by Patentee, supports a conclusion that the IDS received September 24, 2010 included 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 §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In view thereof, the patent term adjustment indicated in the patent should have been four hundred twenty **(420)** days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred twenty (420) 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 : 7,897,639 B2

DATED : March 1, 2011

INVENTOR(S) : Jeroen C. Verheijen

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 (405) days

Delete the phrase "by 405 days" and insert – by 420 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **07/21/11**

TO SPE OF : ART UNIT: **1626 Attn: MCKANE JOSEPH K (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/969796 Patent No.: 7897639

CofC mailroom date: 07/12/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Please check References Cited and Claim 14**

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

Thank You For Your Assistance

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

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

Comments: Certificate has been approved.

/Joseph K. McKane/ 1626
SPE **Art Unit**

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H. C. Chan
T-RAM, Inc.
100 Headquarters Drive
San Jose CA 95134-1370

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,015,077	:	
Issue Date: March 21, 2006	:	
Application No. 10/970,085	:	NOTICE
Filed: October 21, 2006	:	
Attorney Docket No. C019-1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 26, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SEP 07 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,596,395
Issued: September 29, 2009
Application No. 10/970,177
Filing or 371(c) Date: October 21, 2004
Dkt. No.: 042933/277810

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

This is a decision on the petition filed on June 18, 2010 requesting reconsideration of the decision mailed May 18, 2010 seeking an increase in patent term adjustment from 914 days to 947 days.

The petition for reconsideration of the decision mailed May 18, 2010 is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The petition for reconsideration of the patent term adjustment of 914 days is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,596,395 on September 29, 2009. The instant petition was timely filed June 18, 2010 within 30 days of the mail date of the decision mailed May 18, 2010. Patentees contest the 120 day adjustment pursuant to 37 CFR 1.702(b) and argue that the correct adjustment in this regard is 153 days.

The calculation of adjustment, along with patentee's arguments, has been carefully reviewed and no error has found.

The patent is entitled to 589 days pursuant to § 1.702(a)(1) from December 22, 2005 to July 17, 2006.

The patent is entitled to 709 days pursuant to § 1.702(b) from October 22, 2007 to September 29, 2009.

In accordance with § 1.702(b)(4), the period of adjustment pursuant to § 1.702(b) is not entitled to any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court, from September 19, 2007 to April 29, 2009, or 589 days. Accordingly, the overall adjustment to which the patent is entitled pursuant to § 1.702(b) is 120 days (709 days – 589 days = 120 days).

The patent is entitled to 589 days pursuant to 37 CFR 1.702(e) from September 19, 2007 to April 29, 2009.

The patent term adjustment is properly reduced three days for applicant delay pursuant to § 1.703(c)(10).

At the time of issuance, the patent was entitled to a paten term adjustment of 914 days, as indicated by the decision mailed May 18, 2010 (208 days per § 1.702(a)(1) + 589 days § 1.702(e) + 709 days per § 1.702(b) – 589 days per § 1.702(b)(4) – 3 days per § 1.704(c)(10)).

In view thereof, the period of adjustment set forth in the decision mailed May 18, 2010 is hereby AFFIRMED.

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

The application is being forwarded to the Certificates of 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 914 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,596,395

DATED : **September 29, 2009** **DRAFT**

INVENTOR(S) : Gartrell

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 794 days

Delete the phrase "by 794 days" and insert – by 914 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/13/11

TO SPE OF : ART UNIT 2443

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/970,309 Patent No. 7,730,129

CofC mailroom date 5/27/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: Approved. Corrections have no effect in the scope of claims.

/Kyung H. Shin/ 6/16/11

/Tonia L. M. Dollinger/ 2443

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7336321
Issue Date: February 26,2008
Application No. 10970394
Filed: October 22,2004
Attorney Docket No. 26427U

:
: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.

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)
7336321	2008-02-26	10970394	2004-10-22	

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	/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.**

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

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.
10/970,446	10/21/2004	Robert M. Leach	38184.03501CIP	6456

38647 7590 04/27/2011
MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON, DC 20006

EXAMINER
CHOI, FRANK I

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
04/27/2011	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

APR 2 7 2011

MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON DC 20006

In re Application of:	:
Leach et al.	:
Serial No.: 10/970,446	: PETITION DECISION
Filed: October 21, 2004	:
Attorney Docket No.: **38184.03501CIP**	

This is in response to the petition under 37 CFR § 1.59(b), filed April 15, 2011 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that a document containing information subject to a Protective Order submitted to the Patent Office on April 15, 2011, 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.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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

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

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

Attorney Docket Number: CIS0225US	
Application Number: 10/970,532	Filing Date (or 371(b) or (f) Date): October 21, 2004
Patent Number: 7,669,244	Issue Date: February 23, 2010
First Named Inventor: Michael R. Smith	
Title: Method & System for Generating User Group Permission Lists	

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

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

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

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

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

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

☐ *Total of _____ forms are submitted.

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

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

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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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 08/13/2010

Applicant	: Michael R. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7669244	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/970,532	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1059** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
HELLER, et al	:	
Application No. 10/970,756	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a proper reply to the Notice of Non-Compliant Amendment mailed, May 11, 2010, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 12, 2010.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center 1634 for appropriate action by the Examiner in the normal course of business.

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

cc: DAVID A. HALL
12730 HIGH BLUFF DRIVE,
SUITE 400
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 16 2011
OFFICE OF PETITIONS

LAWRENCE LIVERMORE NATIONAL SECURITY, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE, CA 94551-0808

In re Patent No. 7,412,103	:	
Issue Date: August 12, 2008	:	
Application No. 10/970,822	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. IL-11220	:	

This is a decision on the petition, filed, April 18, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee names are Lawrence Livermore National Security, LLC and The Regents of the University of California. Petitioner further states that the assignee names were not correctly indicated on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Lawrence Livermore National Security, LLC and The Regents of the University of California were the assignees of record before issuance of the patent.

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

Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKA CHAN LLP / ORACLE
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Ekkehard Rohwedder et al.	:	
Application No. 10/970,900	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. ORACP019	:	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 22, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/27/11

TO SPE OF : ART UNIT 2192

SUBJECT : Request for Certificate of Correction for Appl. No.: 10970955 Patent No.: 7886275

CofC mailroom date: 03/22/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /TUAN Q. DAM/ Art Unit 2192

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey A. JEDDELOH, et *al.*	:	
Application No. 10/971,339	:	DECISION GRANTING PETITION
Filed: October 21, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **021031-001110US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 5, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1634 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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/971,339 Patent No. 7,901,880B2

CofC mailroom date 10/20/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
(571) 272-0460

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Dave Nguyen/
1634

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/971,339 Patent No. 7,901,880B2

CofC mailroom date 10/20/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
(571) 272-0460

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Dave Nguyen/
1634

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/971,339 Patent No. 7,901,880B2

CofC mailroom date 10/20/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
(571) 272-0460

Thank You For Your Assistance

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

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

Comments: _____

/Dave Nguyen/
1634

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Changsoo Je et al.	:	
Application No. 10/971,390	:	DECISION ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 16143.5	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 22, 2007. Accordingly, the date of abandonment of this application is January 23, 2008. A Notice of Abandonment was mailed on February 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received October 7, 2010.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAMS MULLEN
222 CENTRAL PARK AVENUE
SUITE 1700
VIRGINIA BEACH VA 23462

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Application of	:	
Nelson M. Karp	:	
Application No. 10/971,426	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. 034698.0012	:	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 21, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Kelly J. Hollowell on behalf of all attorneys/agents associated with customer number 45309. All attorneys/agents associated with customer number 45309 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Nelson Karp
4837 Kempsville Greens Parkway
Virginia Beach, VA 23542

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/971,426	10/22/2004	Nelson M. Karp	034698.0012

CONFIRMATION NO. 7175

POWER OF ATTORNEY NOTICE

45309
WILLIAMS MULLEN
222 CENTRAL PARK AVENUE
SUITE 1700
VIRGINIA BEACH, VA 23462

OC000000052012096

Date Mailed: 01/17/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2011.

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

/kainabinet/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110823

DATE : August 23, 2011

TO SPE OF : ART UNIT 2166

SUBJECT : Request for Certificate of Correction on Patent No.: 7613709

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:

/Hosain T Alam/
Supervisory Patent Examiner, Art Unit 2166

UNITED STATES 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 17,2011

In re Application of :

Amr Salahieh

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10971535

Filed : 21-Oct-2004

Attorney Docket No : S63.2H-15125-US01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed November 17,2011 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 3774 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	10971535
Filing Date	21-Oct-2004
First Named Inventor	Amr Salahieh
Art Unit	3774
Examiner Name	SUBA GANESAN
Attorney Docket Number	S63.2H-15125-US01
Title	LEAFLET ENGAGEMENT ELEMENTS AND METHODS FOR USE THEREOF

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

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

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/James L. Shands/
Name	James L. Shands
Registration Number	54439

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Alexandria, VA 22313-1450
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RUBINSTEIN LAW GROUP
C/O DORT PATENT, P.C.
BOX 320069
ALEXANDRIA VA 22320

MAILED

DEC 22 2011

OFFICE OF PETITIONS

In re Application of :
Cherif R. MEDAWAR :
Application No. 10/971,717 : DECISION ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. 1001.US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office Communication (Communication), mailed March 30, 2011. The Communication set a period for reply of **two (2) months** from the mail date of the Communication. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 31, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a declaration statement; (2) the petition fee of $930; and (3) the required statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

All other inquires should be directed to the Office of Data Management at (571) 272-4200.

This application is being referred to the Office of Data Management for further pre-examination processing.

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

cc: DAVID B. DORT
425 S. WASHINGTON, SUITE 2A
ALEXANDRIA, VA 22314

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

MAILED

JAN 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Percival, Jeffrey D.	:	
Application No. 10/971,739	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. 44858-72079	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 19, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, 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, pursuant to 37 CFR 10.40(c).

The request was signed by Steven M. Ritchey on behalf of all the attorneys of record who are associated with Customer Number 21888. All attorneys/agents associated with Customer Number 21888 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee, Percy's Performance Plastics, LLC, at the address indicated below.

There is an outstanding Office action mailed July 8, 2010 that requires a reply.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: PERCY'S PERFORMANCE PLASTICS, LLC
2741 GOOSE LANDING
PACIFIC, MO 63069

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

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,217,927	:	
Issue Date: May 15, 2007	:	
Application No. 10/971,745	:	NOTICE
Filed: October 22, 2004	:	
Attorney Docket No. 12355-012001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 10, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. 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.

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.

This file is being forwarded to Files Repository.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
CPA Global
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Eytan Barnea	:	UNDER 37 CFR 1.78(a)(3)
Application No. 10/971,760	:	
Filed: October 22, 2004	:	
Atty Docket No. **120785.00701**	:	

This is a decision on the PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY PURSUANT TO 37 C.F.R. §1.78(a)(3), filed October 26, 2011, to include a corrected claim of priority to U.S. Non-Provisional Application No. 10/482,244.

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), and must be filed during the pendency of the nonprovisional application. 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 instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for priority set forth on petition was not submitted on filing in the first sentence of the specification or in an application data sheet. The relationship of application No. 10/482,244 to this application was not stated as required for a proper claim under 35 U.S.C. §120. The four and sixteen-month periods specified in 37 CFR §§ 1.78(a)(2)(ii) have expired. Thus, the instant petition is appropriate. In addition, the petition includes payment of the surcharge and the required statement of unintentional delay.

On petition, the reference to prior-filed application No. 10/482,244 as a continuation-in-part application has been included in a supplemental application data sheet. However, a final Office action was mailed in this application on October 13, 2011. To reopen prosecution for consideration of the amendment of the application by way of entry of a supplemental application data sheet, petitioner must submit a Request for Continued Examination (RCE) and fee.

It is further noted that this petition also appears to request acceptance of a late benefit claim to provisional application No. 60/302,607 via intermediate application No. 10/482,244. Clarification is requested.

In view thereof, the petition is dismissed.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

MAILED
JAN 25 2012
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Eytan Barnea	:	UNDER 37 CFR 1.78(a)(3)
Application No. 10/971,760	:	and 37 CFR 1.78(a)(6)
Filed: October 22, 2004	:	
Atty Docket No. 120785.00701	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF AND RENEWED PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY PURSUANT TO 37 C.F.R. §§ 1.78(a)(3)and 1.78(a)(6), filed January 17, 2012, to accept late claims of priority to U.S. Non-Provisional Application No. 10/482,244 and provisional application No. 60/302,607.

The petition is **GRANTED**.

By decision mailed November 21, 2011, the initial petition under 37 CFR 1.78(a)(3) was dismissed. The requirements of 37 CFR 1.78(a)(3)(and (a)(6)) were met except, i) a request for continued examination (RCE and RCE fee) were required for consideration of the supplemental ADS after the mailing of the final Office action, and ii) confirmation was required that petitioner also was requesting a late benefit claim to provisional application No. 60/302,607.

On instant renewed petition, applicant filed the RCE and RCE fee, and clarified that a late benefit claim to provisional application No. 60/302,607 was being requested. The petition includes an amendment setting forth the claims of priority to application No. 10/482,244 and to provisional application No. 60/302,607 via intermediate application No. 10/482,244.

The instant application was filed on October 22, 2004, and was copending with application No. 10/482,244 filed August 11, 2004, and issued September 25, 2007. With respect to 35 U.S.C. 120 and 37 C.F.R. 1.78(a)(3), the relationship of prior-filed nonprovisional application No. 10/482,244 is stated as a continuation-in-part. Application No. 10/482,244 is the national stage entry of international application No. PCT/US2002/020599 filed June 28, 2002. With respect to 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6), the claim to priority of provisional application No. 60/302,607 was made in intermediate application No. 10/482,244. Further, provisional application No. 60/302,607 for which priority is claimed was filed on July 2, 2011, which is within twelve months of international application No. PCT/US2002/020599 filed June 28, 2002. In addition, the filing fee was paid in the provisional application. Further, it is noted that the applications incorporated by reference in the amendment filed January 17, 2012 were incorporated by reference on filing of the application. As such, the amendment is accepted as containing the reference required by 35 U.S.C. § 119(e) and 37 CFR § 1.78(a)(5)(i), and 35 U.S.C. 120 and 1.78(a)(2)(i).

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 1644 for processing of the request for continued examination filed January 17, 2012 and consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) of the prior-filed applications as set forth in the amendment filed January 17, 2012.

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
10/971,760	10/22/2004	1644	1390	120785.00701	50	18

CONFIRMATION NO. 9937

CORRECTED FILING RECEIPT

21269
PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

OC000000052182677

Date Mailed: 01/25/2012

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

Applicant(s)

Eytan R. Barnea, Cherry Hill, NJ;

Power of Attorney:

Raymond Miller--42891	Kathleen Johnson--51852
James Singer--45111	John Pillion--52122
Joseph Melnik--48741	Carissa Howard--52278
Alka Patel--49092	Erik Videlock--53722
N. Endejann--50229	Joseph Helmsen--54163

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/513,370 10/22/2003
and is a CIP of 10/482,244 08/11/2004 PAT 7273708
which is a 371 of PCT/US02/20599 06/28/2002
which claims benefit of 60/302,607 07/02/2001

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

If Required, Foreign Filing License Granted: 02/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/971,760**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

METHODS OF ADMINISTERING PIF AGONIST PEPTIDES AND USES THEREOF

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage, facilitate, and accelerate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

In re Patent No. 7319747
Issue Date: January 15,2008
Application No. 10971821
Filed: October 22,2004
Attorney Docket No. 5084-0007

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

This is a decision on the electronic petition, filed March 10,2012 ,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 10,2012 .
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)
7319747	2008-01-15	10971821	2004-10-22	

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	/michaeldiaz/	Date (YYYY-MM-DD)	2012-03-10
Name	Michael Diaz	Registration Number	40588

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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www.uspto.gov

Sterne, Kessler, Goldstein, & Fox PLLC
1100 New York Avenue, NW
Washington, DC 20005

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,582,672	:
Middlemiss et al.	: DECISION UPON REMAND AND
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 10/972,060	: PATENT TERM ADJUSTMENT
Filed: October 22,2004	: AND NOTICE OF INTENT
Attorney Docket No	: TO ISSUE CERTIFICATE OF
2327.0030000/RWE	: CORRECTION
Title: Compounds for the	:
Treatment of CRTH2-Mediated	
Diseases and Conditions	

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred and two (802) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and two (802) 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 : 7,582,672

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

INVENTOR(S) : Middlemiss 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 802 days

Delete the phrase "by 474 days" and insert – by 802 days--

Day : Tuesday
Date: 12/28/2010

PALM INTRANET

Time: 15:18:05

PTA Calculations for Application: 10/972060			
Application Filing Date:	10/22/2004	PTO Delay (PTO):	546
Issue Date of Patent:	09/01/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	72
Post-Issue Petitions:	0	Total PTA (days):	802
PTO Delay Adjustment:	328		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
101	12/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	328		
96.5	08/12/2009	PTA 36 MONTHS			
96	09/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
95	07/13/2009	EXPORT TO FINAL DATA CAPTURE			
94	07/10/2009	DISPATCH TO FDC			
93	07/10/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
91	07/07/2009	ISSUE FEE PAYMENT VERIFIED			
90	07/07/2009	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
89	07/07/2009	ISSUE FEE PAYMENT RECEIVED			
88	04/13/2009	EXPORT TO INITIAL DATA CAPTURE			
87	04/17/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
86	04/16/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
84	04/07/2009	MAIL NOTICE OF ALLOWANCE			
83	04/07/2009	ISSUE REVISION COMPLETED			
82	04/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
81	04/02/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
80	04/02/2009	DOCUMENT VERIFICATION			
79	04/02/2009	NOTICE OF ALLOWABILITY			
78	02/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
77	02/26/2009	REFERENCE CAPTURE ON IDS			

76	02/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	03/20/2009	DATE FORWARDED TO EXAMINER			
74	03/09/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	03/20/2009	DATE FORWARDED TO EXAMINER			
72	02/26/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
71	03/20/2009	DISPOSAL FOR A RCE / CPA / R129			
70	02/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	02/26/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	12/01/2008	EXPORT TO INITIAL DATA CAPTURE			
67	11/26/2008	MAIL NOTICE OF ALLOWANCE			
66	11/25/2008	ISSUE REVISION COMPLETED			
65	11/25/2008	DOCUMENT VERIFICATION			
64	11/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	11/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
62	11/20/2008	NOTICE OF ALLOWABILITY			
60	09/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	09/15/2008	REFERENCE CAPTURE ON IDS			
56	09/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	09/15/2008	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
54	10/21/2008	DATE FORWARDED TO EXAMINER			
53	09/15/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	10/21/2008	DISPOSAL FOR A RCE / CPA / R129			
51	09/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	09/15/2008	SUPPLEMENTAL PAPERS - OATH OR DECLARATION			
49	09/15/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	07/23/2008	FINISHED INITIAL DATA CAPTURE			
47	06/30/2008	EXPORT TO INITIAL DATA CAPTURE			
46	06/25/2008	MAIL NOTICE OF ALLOWANCE			
45	06/24/2008	ISSUE REVISION COMPLETED			

44	06/24/2008	DOCUMENT VERIFICATION			
43	06/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	06/23/2008	NOTICE OF ALLOWABILITY			
41	05/20/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
40	06/05/2008	DATE FORWARDED TO EXAMINER			
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38	05/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
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36	05/07/2008	CORRESPONDENCE ADDRESS CHANGE			
35	02/07/2008	MAIL FINAL REJECTION (PTOL - 326)			
34	02/04/2008	FINAL REJECTION			
31	12/07/2007	DATE FORWARDED TO EXAMINER			
30	11/19/2007	RESPONSE AFTER NON-FINAL ACTION		59	27
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25	05/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	08/01/2006	PRELIMINARY AMENDMENT			
21	01/23/2006	PRELIMINARY AMENDMENT			
20	01/23/2006	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
19.7	09/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	09/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	09/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	09/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	05/27/2005	REFERENCE CAPTURE ON IDS			
14.7	05/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

13	02/04/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	02/24/2005	APPLICATION RETURN FROM OIPE			
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7	10/22/2004	CLAIM PRELIMINARY AMENDMENT			
6	02/04/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	12/02/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/24/2004	CLEARED BY OIPE CSR			
3	11/24/2004	CASE CLASSIFIED BY OIPE			
2	11/04/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/22/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 17, 2010

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/972111 Patent No.: RE40944

CofC mailroom date: 10-28-09

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

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

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

Comments: Amendment to have claims 33-34 and 36 depend on claim 37 is not approved. Claims 33-34 and 36 are not original claim numbers so they can't depend on a higher-numbered claim on a reissue.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JLB Consulting
c/o PortfolioIP
P.O. Box 52050
Minneapolis, MN 55402

MAILED

FEB 02 2011

OFFICE OF PETITIONS

In re Application of Berkman et al. :
Application No. 10/972,179 : Decision on Petition
Filing Date: October 22, 2004 :
Attorney Docket No. J108U001US00 :

This is a decision on the petition filed September 2, 2010, under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b).

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

The petition under 37 CFR 1.137(b) 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 CFR 1.136(a) are permitted.

Facts

The application papers filed October 22, 2004, included an executed declaration. The declaration instructed the Office to send correspondence to the following address:

JLB Consulting
c/o PortfolioIP
P.O. Box 52050
Minneapolis MN 55402

The petition states, "Applicants transferred this file to the present firm of Sofer and Haroun LLP, in January of 2008."

A Revocation of Power of Attorney With New Power of Attorney and Change of Correspondence Address ("Revocation") was filed January 10, 2008.

The Revocation was not entered by the Office.

The Office mailed a non-final Office action to the address on the declaration on February 28, 2008. The Office action set a three-month shortened statutory period for reply. The Office did not receive a reply to the Office action or a request for an extension of time. As a result, the application became abandoned on May 29, 2008.

The Office mailed a Notice of Abandonment to the address on the declaration on October 15, 2008.

Sofer & Haroun LLP ("Sofer & Haroun") does not appear to have received the February 28, 2008 Office action or the October 15, 2008 Notice of Abandonment. The law firm appears to have first learned of the documents after reviewing the PAIR record for the application. Specifically, the petition states,

> Upon [a] routine review of the file, we noted that there was no indication of any action according to our records. [However,] a review of PAIR [indicated] the application was abandoned for failure to reply to an Office action.

The instant petition was filed September 2, 2010. The petition requests relief under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b). The petition also requests entry of the Revocation filed January 10, 2008.

The January 10, 2008 Revocation is Improper

The petition appears to allege the Office action was not received because the Office failed to mail the Office action to the address associated with Customer No. 39600, an address for Sofer & Haroun. Therefore, the Office will review the propriety of the Revocation.

The Revocation appoints the practitioner(s) associated with Customer No. 36900. However, no practitioners are associated with Customer No. 36900. The address associated with the customer number is the Boston address of an inventor with the last name Largoza.

The Revocation appears to request the Office send future correspondence to the address associated with an illegible customer number. The customer number appears to either be 36900 or 38900. The address associated with Customer No. 38900 is an address for a company located in Boston.

The Revocation includes a typewritten address, which appears to be the current law firm's address. The Office notes the typewritten address is not completely legible. Specifically, a person reviewing the Revocation, without any additional information, might reasonably believe the first portion of the firm's name is "Bofer" and/or believe the first digit of the Suite number is a three or an eight.

The image file wrapper for the application includes the following annotation associated with the Revocation: "Invalid CN for POA."

In view of the prior facts, the Revocation is improper.

Although the Revocation is improper, the Office is mailing a courtesy copy of this decision to the address set forth at the end of the petition; *however*, the Office will mail all future correspondence solely to the current address of record until a proper request to change the address or record is filed.

The Petition Under 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must include a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. "[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[2]

The petition fails to establish the typographical error(s) on the Revocation occurred despite diligence by Sofer & Haroun.

The petition indicates the law firm did not receive the Office action and implies the law firm did not receive the Notice of Abandonment. However, the petition fails to indicate whether or not JLB, located at the address on the declaration, forwarded the document(s), and if so, whether or not Applicants and/or the assignee received the documents. If Applicants and/or the assignee were aware of either document, but failed to bring the matter to the law firm's attention, then the entire delay in the submission of a reply to the Office action could not be considered unavoidable.

In order for relief under 37 CFR 1.137(a) to be proper, a party must demonstrate the entire period of delay was unavoidable. The petition fails to identify the date the law firm first learned the application was abandoned. As a result, the Office is unable to evaluate the extent to which the period of delay, beginning on the date the law firm learned the application was abandoned and ending on the date the petition was filed, was unavoidable.

The application was filed October 22, 2004. The record fails to indicate Sofer & Haroun took any steps to check on the status of the application between the date the Revocation was filed and the date the law firm learned the application was abandoned. The record fails to prove a law firm, as month after month passed, would not have taken steps to check the status of the application. The Office notes the petition was filed more than five years and ten months after the application's filing date.

---

[1] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

In view of the prior discussion, the record is insufficient to prove the entire delay in the submission of a reply to the February 28, 2008 Office action was unavoidable.

The Petition Under 37 CFR 1.137(b)

The petition is filed in the alternative under 37 CFR 1.137(b).

The Office will not consider the merits of a petition absent the submission of the required petition fee. The petition fee for a petition under 37 CFR 1.137(b) is $810 for a small entity. Petitioner did not submit $810 with the petition and the petition does not include authorization for the Office to charge the fee to a deposit account. Therefore, the merits of the petition under 37 CFR 1.137(b) will not be considered and the petition is dismissed.

The Request for Continued Examination Filed With the Petitions

The petitions are accompanied by a reply to the outstanding Office action *and* a request for continued examination ("RCE").

Pursuant to 37 CFR 1.114(a), a RCE can only be filed if prosecution is closed. 37 CFR 1.114(b) states,

> 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.

Prosecution in this application has not been closed. Therefore, the RCE is improper and will not be entered. The RCE fee of $405 has been credited back to Deposit Account No. 19-2825.

Conclusion

The petition under 37 CFR 1.137(a) cannot be granted because the record fails to establish the entire delay in the submission of a reply to the February 28, 2008 Office action was unavoidable.

The merits of the petition under 37 CFR 1.137(b) have not been considered because the required petition fee has not been submitted.

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.[3] 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

[3] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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: Joseph Sofer
Suite 910
317 Madison Ave.
New York, NY 10017

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JLB Consulting
c/o PortfolioIP
P.O. Box 52050
Minneapolis, MN 55402

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of Berkman et al. :
Application No. 10/972,179 : Decision on Petition
Filing Date: October 22, 2004 :
Attorney Docket No. J108U001US00 :

This is a decision on the petition under 37 CFR 1.137(b) filed April 4, 2011, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on February 28, 2008. The Office action set a three-month shortened statutory period for reply. The Office did not receive a reply to the Office action or a request for an extension of time. As a result, the application became abandoned on May 29, 2008. The Office mailed a Notice of Abandonment on October 15, 2008.
The instant petition requests revival of the application.

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

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

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

The petition is accompanied by a Change of Correspondence Address form ("Address Form") which identifies the application number as 11/972,179. Although the petition states the Address

Form sets forth a customer number of 39600, the customer number and other portions of the Address Form are illegible.

The Address Form is signed by Robert Haroun. As stated in a prior decision mailed by the Office on February 2, 2011, the Revocation of Power With New Power of Attorney form filed January 10, 2008, was improper. In other words, Robert Haroun does not have a power of attorney in the instant case. Therefore, the Address Form is not properly signed and the address of record will not be changed. If applicants wish to change the address of record and appoint new representatives to handle prosecution of the application, a properly signed and legible Revocation of Power With New Power of Attorney form should be filed.

In view of all the facts in this case, the Office is mailing a courtesy copy of this decision to the address set forth at the end of the petition; *however*, the Office will mail all future correspondence solely to the current address of record until a proper request to change the address or record is filed.

Technology Center Art Unit 3694 will be informed of the instant decision and the application, including the amendment filed September 2, 2010, 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

cc: Joseph Sofer
Suite 910
317 Madison Ave.
New York, NY 10017

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/2/10

TO SPE OF : ART UNIT 2195 (2100)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/972,232 Patent No.: 7,694,305

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, ATE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

SPE /Emerson Puente/ ART UNIT 2195

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.
10/972,295	10/25/2004	Shalva Gedevanishvili	021238-620	7723

21839 7590 01/28/2011
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
FELTON, MICHAEL J

ART UNIT	PAPER NUMBER
1747	

NOTIFICATION DATE	DELIVERY MODE
01/28/2011	ELECTRONIC

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

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

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

ADIPFDD@bipc.com
offserv@bipc.com

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10972295	10/25/04	GEDEVANISHVILI, SHALVA	021238-620

EXAMINER
RICHARD CRISPINO

ART UNIT	PAPER
1747	20110127

DATE MAILED:

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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

Commissioner for Patents

The request to correct the inventorship of this nonprovisional application (filed 5/15/07) under 37 CFR 1.48(a) is deficient because an oath or declaration by each actual inventor or inventors listing the entire inventive entity has not been submitted; the inventorship has not been changed.

The petiton is dismissed.

Any inquiry concerning this communication should be directed to Richard Crispino whose telephone number is 571-272-1226. The examiner can normally be reached on Monday through Thursday, 7:30 to 5:00, and every other Friday, 7:30 to 4:00

/Richard Crispino/
Richard Crispino
SPE, Art Unit: 1747

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United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/972,295	10/25/2004	Shalva Gedevanishvili	021238-620	7723

21839 7590 03/14/2011
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
FELTON, MICHAEL J

ART UNIT	PAPER NUMBER
1747	

NOTIFICATION DATE	DELIVERY MODE
03/14/2011	ELECTRONIC

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

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

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

ADIPFDD@bipc.com
offserv@bipc.com

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10972295	10/25/04	GEDEVANISHVILI ET AL.	021238-620

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
RICHARD CRISPINO

ART UNIT	PAPER
1747	20110311

DATE MAILED:

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

Commissioner for Patents

In view of the papers filed 02/28/2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of the following names as inventors:

Firooz Rasouli

Wei-Jun Zhang

Ping Li

Any inquiry concerning this communication should be directed to Richard Crispino whose telephone number is 571-272-1226. The examiner can normally be reached on Monday through Thursday, 7:30 to 5:00 and every other Friday, 7:30 to 4:00.

/Richard Crispino/
Supervisory Patent Examiner, Art Unit 1747

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The Law Office of Jonathan E. Szarzynski, PLLC.
834 Knott Pl.
Dallas TX 75208

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Todd Tredeau, et al.	:	
Application No. 10/972,496	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 350-100	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 25, 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 September 26, 2007. The Notice of Abandonment was mailed February 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2887 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Delphine M. James
Suite 170
2656 South Loop West
Houston TX 77054

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Celeste A. STEIN et al. :
Application No. 10/972,503 : DECISION ON PETITION
Filed: October 25, 2004 :
Attorney Docket No. **DMJ200507025** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 07, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 23, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of March 23, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1794 for appropriate action on the amendment previously filed on September 28, 2009.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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RG and Associates
1103 Twin Creeks
Allen, TX 75013

Mail Date: 08/03/2010

Applicant	: Chiang Yeh	: DECISION ON REQUEST FOR
Patent Number	: 7639674	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/972,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **855** 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 : 08/31/10

TO SPE OF : ART UNIT 2446

SUBJECT : Request for Certificate of Correction for Appl. No 10/972,531.: 7620690

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)

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: _____

11/10/10 AU2478

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/31/10

TO SPE OF : ART UNIT 2446

SUBJECT : Request for Certificate of Correction for Appl. No 10/972,531 : 7620690

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — 2478 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.
10/972,602	10/25/2004	Karl-Heinz Otto Mertins	16795 D1-US	1086

7590 10/01/2010

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

EXAMINER
FREJD, RUSSELL WARREN

ART UNIT	PAPER NUMBER
2128	

MAIL DATE	DELIVERY MODE
10/01/2010	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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

September 30, 2010

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE IL 61265

In re Application of	:	
Karl-Heinz Otto Mertins, et al	:	**DECISION ON PETITION**
Application No. 10972602	:	
Filed: 10/25/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **16795 D1-US**	:	***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 25, 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

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

Patent No. 7680014	**Patent Date** March 16, 2010	**MAILING DATE**
Patentee ORI, TETSUYA		**April 29, 2010**

NOTIFICATION OF RETURN OF PAPER
RE REQUEST FOR CERTIFICATE OF CORRECTION

The request for a Certificate of Correction in the above-identified patent is returned herewith, together with the PTO 1050 forms, for the reason(s) checked below.

☐ 1. The request is unsigned. The request must be properly signed before it will be considered.

☐ 2. The request does not specifically designate the column and line numbers wherein the errors appear in the patent. A substitute request providing this information is required for proper consideration.

☑ 3. The PTO -1050(SB44) submitted with your request is not suitable for printing purposes. See the instructions on the blank PTO-1050 (SB44) enclosed.

☐ 4. The Patent No., as shown on the papers, appears to be incorrect because:

- ☐ a. The patent No. on the request and on the PTO-1050 does not agree.
- ☐ b. The name of the patentee on the patented file does not agree with that shown on the enclosed papers.

☐ 5. The record reveals that there is no power of attorney to you in this case. A written power or authorization from the patentee, or assignee if any, must be submitted before the request may be considered.

☐ 6. The Patent No., as shown on the papers, appears to be incorrect because:

- ☐ a. Amendment purported to be under Rule 312
- ☐ b. Assignment.
- ☐ c. Priority papers.
- ☐ d. Other (identify)_____

☐ 7. Other:

☐ A. PLEASE RETURN A COPY OF THIS LETTER TOGETHER WITH THE ENCLOSED PAPERS AS CORRECTED TO ENSURE EXPEDIENT ASSOCIATION WITH THE FILE.

☐ B. Enclosed are copies of PTO-1050 for use in typing the subject matter to be printed on the Certificate. This will avoid delay in handling the request.

Lamonte M. Newsome
Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

ARNOLD INTERNATIONAL
P. O. BOX 129
GREAT FALLS VA 22066-0129

LMN

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

Page 1 of 1

PATENT NO. : US 7,680,014 B2
APPLICATION NO.: 10/972,670
ISSUE DATE : Mar. 16, 2010
INVENTOR(S) : Ori 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 col. 2
Line 8, change "20(GB of data storage" to - - 20 GB of data storage - - ;

In col. 8
Line 29, change "second 20 wavelength" to - - second wavelength - - ;

In col. 11
Line 24, change

"$Z = [(C \cdot Y^2) / \{1 + (1 - K \cdot C^2 \cdot Y^2)^{1/2}\}] + \sum A_i \cdot Y^{2i}$ . . . Equation (A)"

to

- -$Z = [(C \cdot Y^2) / \{1 + (1 - K \cdot C^2 \cdot Y^2)^{1/2}\}] + \sum A_i \cdot Y^{2i}$ . . . Equation (A) - - ;

In col. 19
Line 47, change "5.1386804E-4" to - - 5.1380804E-4 - - ;

In col. 40
Line 54, change "NA1 ≥NA2 ≥NA3" to - - NA1 ≥NA2 >NA3 - - ;

In col. 41
Line 54, change "three distance distances" to - - three distances - - ; and

In col. 42
Line 16 change "d3 > d2" to - - d3 < d2 - - .

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

Arnold International
P.O. Box 129
Great Falls, VA 22066-0129

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAYNARD COOPER & GALE, PC
1901 SIXTH AVENUE NORTH
2400 REGIONS/HARBERT PLAZA
BIRMINGHAM AL 35203-2618

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Ross Alan Tessien	:	
Application No. 10/972,705	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 12259-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed October 7, 2010. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on April 8, 2011. A Notice of Abandonment was mailed May 9, 2011.

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

With respect to item (1), petitioner has failed to submit the required Request for Continued Examination (RCE) fee of $405.00.

With regards to item (3), petitioner has failed to submit a proper unintentional statement as required by 37 CFR 1.137(b). Form PTO/SB/64 is enclosed.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAYNARD COOPER & GALE, PC
1901 SIXTH AVENUE NORTH
2400 REGIONS/HARBERT PLAZA
BIRMINGHAM AL 35203-2618

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Ross Alan Tessien	:	
Application No. 10/972,705	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 12259-1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, October 7, 2010, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 8, 2011. A Notice of Abandonment was mailed May 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) (previously submitted April 20, 2011) and fee of $405.00 and the submission required by 37 CFR 1.114, (2) the petition fee of $810.00 (previously paid April 20, 2011), and (3) a proper statement of unintentional delay.

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

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

This matter is being referred to Technology Center AU 3663 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed April 20, 2011.

/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

DAVID J. BOLDUC
FACE INTERNATIONAL CORPORATION
427 W 35TH ST
NORFOLK VA 23508

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,161,276	:	
Issued: January 9, 2007	:	
Application No. 10/972,803	:	ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. SVC076	:	

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

The petition is **GRANTED**.

This patent expired on January 10, 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.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/24/11

TO SPE OF : ART UNIT: 3771 Attn: YU JUSTINE R (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/972857 Patent No.: 7398780

C of C 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

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

Comments: the correction on page 2, under Other Publications, by adding - - Ovion's Response to Conceptus' Interrogatories- - and - - Declaration of Kathryn Tunsdall – will not be entered since the Publications lack a required IDS to support the request.

/Justine Yu/ AU3771
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Application of:
Timothy Hellman
Application No. 10/972,931
Filed: October 25, 2004
Attorney Docket No. 15757US02

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the petition filed October 27, 2011, under 37 C.F.R. § 1.705 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 to 1105 days.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

Patentee's argue that the issuance of the patent resulting from this application has been delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, resulting in the reversal of an adverse determination of patentability. 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).

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.

In this instance a Notice of Appeal was filed January 22, 2010 and a non-Final Office Action was mailed July 21, 2010. Thus there is no patent term adjustment for the periods between the filing of the Notice of Appeal and the mailing of the subsequent Office Action.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

July 14, 2011

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

In re Application of	:	
Khan, Shaharyar	:	**DECISION ON PETITION**
Application No. 10/972,963	:	
Filed: 10/25/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. GNC 0003	:	***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 25, 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE FARRELL LAW FIRM, P.C.
290 BROADHOLLOW ROAD
SUITE 210E
MELVILLE NY 11747

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Kim et al	:	
Application No. 10/973,100	:	DECISION ON PETITION
Filed: October 25, 2004	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 678-0487 RE	:	

This is a decision on the petition under 37 CFR 1.313(c), filed November 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2117 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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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AT&T LEGAL DEPARTMENT –CC
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

MAILED

DEC 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Herbert FORSYTHE, et al	:	
Application No. 10/973,109	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Docket No. 040338 (BLL-0261)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 2195 for appropriate action by the Examiner in the normal course of business.

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

Cc: MARISA J. DUBUC
CANTOR COLBURN LLP,
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JUN 13 2011

OFFICE OF PETITIONS

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

In re Patent No. 7,400,643
Issue Date: July 15, 2008
Application No. 10/973,612
Filed: October 26, 2004
Attorney Docket No. BP3974

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition, filed February 14, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Applications No. 10/778,754, filed February 13, 2004; 10/778,751, filed February 13, 2004; and, 10/779,245, filed February 13, 2004.

The petition is **granted**.

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

The instant application was filed January 11, 2007. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See, MPEP 1481.

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

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed non-provisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Receipt is acknowledged of the required surcharge fee, as well as the $100 certificate of correction fee.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
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
10/973,612	10/26/2004	2617	1232	BP3974	23	4

CONFIRMATION NO. 2871

CORRECTED FILING RECEIPT

51472
GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

OC000000048139217

Date Mailed: 06/10/2011

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

Applicant(s)

Christopher J. Hansen, Sunnyvale, CA;
Jason A. Trachewsky, Menlo Park, CA;
R. Tushar Moorti, Mountain View, CA;

Power of Attorney: The patent practitioners associated with Customer Number 34399

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/544,605 02/13/2004
and claims benefit of 60/546,622 02/20/2004
and claims benefit of 60/575,954 06/01/2004
and is a CIP of 10/778,754 02/13/2004 PAT 7,162,204
and is a CIP of 10/778,751 02/13/2004 PAT 7,269,430
and is a CIP of 10/779,245 02/13/2004 PAT 7,539,501

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: 01/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/973,612**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

TRANSMISSION OF WIDE BANDWIDTH SIGNALS IN A NETWORK HAVING LEGACY DEVICES

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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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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NOV 09 2010
OFFICE OF PETITIONS

In re Patent of Tofighi et al. :
Patent No. 7,686,239 :
Issue Date: March 30, 2010 :
Application No. 10/973,776 :
Filing Date: October 26, 2004 :
Attorney Docket No. 04712/031003 :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed May 27, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand six hundred fifty-three (1,653) days.

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

The patent issued March 30, 2010. The patent sets forth a patent term adjustment determination of 1,408 days. This request for reconsideration of the Office's determination of patent term adjustment was timely filed within two months of the issue date of the patent.

Patentees assert the correct patent term adjustment is 1,653 days, which is the sum of 914 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 886 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") reduced by 147 days of delay under 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay").

The Office agrees the period of A Delay is 914 days, the period of B Delay is 886 days, and the total period of Applicant Delay is 147 days. However, the Office does not agree the proper patent term adjustment is 1,653 days.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of A Delay and B Delay to the extent such periods of delay are not overlapping. Therefore, when determining patent term adjustment, the sum of A Delay and B Delay must be reduced by the number of days of overlap between the two periods of delay.

The period of A Delay and the period of B Delay both include the 256-day period beginning October 27, 2007, and ending June 27, 2008. Specifically,

1. The period of A Delay consists of the 914-day time period beginning December 27, 2005, the day after the date 14 months after the filing date, and ending on June 27, 2008; and
2. The period of B Delay consists of the 886-day time period from October 27, 2007, the day after the date three years after the filing date, and ending on March 30, 2010, the date the patent issued.

The sum of 914 days of A Delay and 886 days of B Delay reduced by 256 days of overlap between A Delay and B Delay and reduced by 147 days of Applicant Delay is 1,408 days.

In view of the prior discussion, the patent term adjustment of 1,408 days indicated on the patent was correct.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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JAN 31 2011

OFFICE OF PETITIONS

In re Application of
William T. WILKINSON
Application No. 10/973,784
Filed: October 26, 2004
Attorney Docket No. **WIL-122US**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 30, 2010.

The request is **APPROVED**.

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

The request was signed by Lawrence E. Ashery 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 sole named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed August 10, 2010 that requires a reply from the applicant.

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

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

cc: **WILLIAM T. WILKINSON**
INNOVATION INDUSTRIES
P.O. BOX 45
MEDIA, PA 19063

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

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DEC 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Hannigan, et al.	:	
Application No. 10/973,934	:	ON REQUEST FOR
Filed: October 25, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 098888-1854	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 20, 2011. Applicants believe that the PTA should be accorded an additional one thousand four hundred five (1405) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

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

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

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

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

In view thereof, the correct determination of PTA prior to issuance is **seven hundred forty-two (742) 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.

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

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Shinji Maekawa, et al.	:	
Application No. 10/973,986	:	DECISION GRANTING PETITION
Filed: October 27, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2785	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 27, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : February 8, 2012

In re Application of :

Shinji Maekawa

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10973986

Filed : 27-Oct-2004

Attorney Docket No : 740756-2785

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed February 8, 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 2811 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	10973986
Filing Date	27-Oct-2004
First Named Inventor	Shinji Maekawa
Art Unit	2811
Examiner Name	ORI NADAV
Attorney Docket Number	740756-2785
Title	WIRING SUBSTRATE AND SEMICONDUCTOR DEVICE

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	/Jeffrey L. Costellia/
Name	Jeffrey L. Costellia
Registration Number	35483

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/25/11

TO SPE OF : ART UNIT 2466

SUBJECT : Request for Certificate of Correction for Appl. No.: 10974029 Patent No.: 7970020

CofC mailroom date: 11/15/11

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 571-273-3421

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.
X Approved in Part	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: The first proposed change is not approved because the article in question is authored by David W. Petr et al., such that the listing of "Petr" is correct. The second proposed change is not approved because the face of the '020 patent already correctly lists USPN 6,658,027 12/2003 to Kramer et al. – the proposed listing of USPN 6,648,027 is incorrect since this patent is to Didur and was published in 11/2003. The third proposed change is not approved because the face of the '020 patent already correctly lists US 2004/0076191 4/2004 to Sundquist et al. – the proposed listing of US 2004/0086191 is incorrect since this pre-grant publication is to Wang and was published in 5/2004. The fourth proposed change is not approved because the copy of the article that is of record lists pages 1-14 and, as indicated in footnote 3 of the article, is a reprint of an article from an IEEE magazine – the article of record is not itself from an IEEE magazine so the current listing of the article on the face of the '020 patent is correct. The remaining proposed changes, namely proposed changes 5-15 are approved.

Daniel Ryman — 2466

SPE — **Art Unit**

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7210683	2007-05-01	10974112	2004-10-27	

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	/Robert Ryan Morishita/	Date (YYYY-MM-DD)	2011-12-13
Name	Robert Ryan Morishita	Registration Number	42907

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. 7210683
Issue Date: May 1,2007
Application No. 10974112
Filed: October 27,2004
Attorney Docket No.

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

This is a decision on the electronic petition, filed December 13,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 13,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACK LO
617 VIEWRIDGE DRIVE
PACIFICA CA 94044

MAILED
OCT 19 2010
OFFICE OF PETITIONS

In re Patent No. 6,974,540	:	
Issue Date: December 13, 2005	:	
Application No. 10/974,641	:	ON PETITION
Filed: October 27, 2004	:	
For: STREET CURB DRAIN FILTER	:	

This is a decision on the petition under 37 CFR 1.378(b), filed July 12, 2010, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

The patent issued on December 13, 2005. The first maintenance fee could have been paid from June 14, 2009 thru December 13, 2009. The patent expired on December 14, 2009.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

Petitioner states that; "We marked on our calendar when the maintenance fees are due on a particular date. We insert the print out from the US Patent and Trademark office in the month that it comes due. In

the past we have paid the fees on time for our other patents. The discovery of the missed payment was on July 12th 2010 around 8:30 am. We verified with the patent owner that this patent maintenance fee was to be paid We made the calls to the patent office to verify what paperwork was needed. We are submitting the form for the unavoidable delayed of payment. We have enclosed Credit card form PTO-2038 indicating the credit card to be charged."

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".[1]

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").[2] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[3] In this regard:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.[5] That is, an adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3)

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[1] 35 U.S.C. § 41(c)(1).

[2] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1989)).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

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

[5] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent.[6]

It appears from petitioner's statement that the maintenance fee payment was just missed. No other reason was provided to support a finding of unavoidable delay. Also, petitioner's preoccupation with other matters which took precedence over the above-identified maintenance fee does not constitute unavoidable delay.

Further, a patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay.[7] Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office's mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, it is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and/or the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.[8]

In summary, no evidence or reason was provided to substantiate an unavoidable delay matter within the meaning of 35 U.S.C. § 41(c) or 37 CFR 1.378(b).

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and the surcharge required by 37 CFR 1.20(i)(1) are refundable. The $400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the addressed noted below.

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.

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[6] Id.

[7] *See* Patent No. 4,409,763, *supra*; *see also* "Final Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), *reprinted in* 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

[8] Rydeen v. Quigg, 748 F. supp. at 900.

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

Cc:

CHARLES R. FIEISCHMANN
960 B DETROIT AVE.
CONCORD, CA 94519

UNITED STATES PATENT AND TRADEMARK OFFICE

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JACK LO
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PACIFICA CA 94044

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Patent No. 6,974,540 :
Issue Date: December 13, 2005 :
Application No. 10/974,641 : ON PETITION
Filed: October 27, 2004 :
For: STREET CURB DRAIN FILTER :

This is a decision on the petition under 37 CFR 1.378(c), filed November 3, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 14, 2009 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A total of $1,190.00 submitted on July 12, 2010, is being refunded to petitioner's credit card account as authorization was provided.

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

As stated previously, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

CHARLES R. FLEISCHMANN
960 B DETROIT AVENUE
CONCORD, CA 94518

UNITED STATES PATENT AND TRADEMARK OFFICE

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SWANSON & BRATSCHUN LLC
8210 SOUTHPARK TERRACE
LITTLETON CO 80120

MAILED
MAR 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Brotchie, et al.	:	
Application No. 10/974,980	:	ON REQUEST FOR
Filed: October 28, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 0206.MO.02C	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 5, 2011. Applicants believe that the PTA should be adjusted from 611 days to 959 days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

In view thereof, the correct determination of PTA prior to issuance is **six hundred eleven (611) days.**

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

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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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-29-09

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/975067 Patent No.: 7584199

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

FOR IFW FILES: Should claims be approved

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: The request for changes/corrections has been approved. /jbf/

/John E Breene/ — SPE

2162 — Art Unit

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UNISYS CORPORATION
Office of the General Counsel
801 Lakeview Drive, Suite 100
MailStop: 2NW
BLUE BELL PA 19422

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Jane Campbell Mazzagatti et al.	:	
Application No. 10/975,223	:	DECISION ON PETITION
Filed: October 28, 2004	:	
Attorney Docket No. TN362	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 25, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 25, 2009. Accordingly, the date of abandonment of this application is September 26, 2009. A Notice of Abandonment was mailed on October 13, 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, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

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

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.

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Richard J. Gregson
Unisys Corporporation
Township Line and Union Meeting Roads
Blue Bell, PA 19424

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DTS, INC.
5220 LAS VIRGENES ROAD
CALABASAS CA 91302

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
REAMS, et al	:	
Application No. 10/975,841	:	DECISION ON PETITION
Filed: October 28, 2004	:	
Attorney Docket No. 443-23-815	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before December 17, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 17, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) a statement of unintentional delay.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 04 2010

OFFICE OF PETITIONS

VENTURE PACIFIC LAW, PC
5201 GREAT AMERICA PARKWAY,
SUITE 270
SANTA CLARA CA 95054

In re Application of	:	
Chuanfu WANG, et al	:	
Application No. 10/975,905	:	DECISION ON PETITION
Filed: October 27, 2004	:	
Attorney Docket No. BYD-US2003-015	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 2, 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 3, 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 reconsideration/arguments (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business.

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

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DEC 22 2010

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006-5403

In re Application of Kato, et al. Application No. 10/976,039 Filed: October 29, 2004 Attorney Docket No. H6808.0007/P007-B	: : : : :	DECISION ON PETITION

This is a decision on the "PETITION FOR WITHDRAWAL OF TERMINAL DISCLAIMER", filed May 25, 2010.

The petition under 37 CFR 1.182 is **GRANTED**.

Receipt of the $400 petition fee is acknowledged.

The application is being forwarded to Group Art Unit 1631. The examiner is directed to withdraw the terminal disclaimer over US Application No. 10/521,351.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Application of :
Hassan, et al. :
Application No. 10/976,100 : ON APPLICATION FOR
Filed: October 27, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 7696-00-PC :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705" filed March 26, 2010, which is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from one thousand, eighty (1,080) days to one thousand, five hundred and eleven (1,511) days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **dismissed**.

Applicants assert the that the 28 day reduction to the patent term adjustment for the filing of a response on October 10, 2008, three months and 28 days after a final Office action was mailed on June 12, 2008, was improper.

---

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

Applicants' argument is not persuasive. Pursuant to 37 CFR 1.704(b), the period of adjustment of the term of the patent is properly reduced by 28 days, the number of says in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, September 13, 2008, and ending on the date the reply under 37 CFR 1.113(c) was filed October 10, 2008. The amendment filed August 12, 2008, was determined not to place the application in condition for allowance at the time it was filed. Accordingly, the amendment was not a reply in compliance with 37 CFR 1.113(c) and did not toll the three month period in which to file a reply to the final Office action pursuant to 37 CFR 1.704(b). The reply that tolled the period under 37 CFR 1.704(b) was the Notice of Appeal filed October 10, 2008, with the reply under 37 CFR 1.113(c), i.e., the appeal brief, having been filed on December 10, 2008. Accordingly, the reduction to the patent term adjustment of 28 days was warranted and will not be removed.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent. Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FEB 14 2011

OFFICE OF PETITIONS

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

In re Patent No. 7,807,189	:	DECISION ON REQUEST
Hassan, et al.	:	FOR
Issue Date: October 5, 2010	:	RECONSIDERATION OF
Application No. 10/976,100	:	PATENT TERM ADJUSTMENT
Filed: October 27, 2004	:	and
Atty. Docket No. 7696-00-PC	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 5, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand, one hundred and thirty-three (2,133) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, six hundred and seventy-six (1,676) days is **GRANTED to the extent indicated herein.**

It is noted that patentees failed to account for the filing of the notice of appeal on October 10, 2008. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 428 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, October 10, 2008, and ending on the date the Decision on Appeal reversing the examiner was mailed, December 11, 2009. Thus, the B delay is 646 days (1074 - 428).

Patentees again assert the that the 28 day reduction to the patent term adjustment for the filing of a response on October 10, 2008, three months and 28 days after a final Office action was mailed on June 12, 2008, was improper.

Applicants' argument is not persuasive. Pursuant to 37 CFR 1.704(b), the period of adjustment of the term of the patent is properly reduced by 28 days, the number of says in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, September 13, 2008, and ending on the date the reply under 37 CFR 1.113(c) was filed October 10, 2008. At that point in the prosecution, the amendment filed August 12, 2008, was determined not to place the application in condition for allowance at the time it was filed. Accordingly, the amendment was not a reply in compliance with 37 CFR 1.113(c) and did not toll the three month period in which to file a reply to the final Office action pursuant to 37 CFR 1.704(b). The reply that tolled the period under 37 CFR 1.704(b) was the Notice of Appeal filed October 10, 2008, with the reply under 37 CFR 1.113(c), i.e., the appeal brief, having been filed on December 10, 2008. Accordingly, the reduction to the patent term adjustment of 28 days was warranted and will not be removed.

The patent term adjustment is 1,676 days (701 days of A delay + 646 days of B delay + 428 days of C delay - 71 days of overlap - 28 days of applicant delay.)

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

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

Deposit account 03-2455 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e) which is required to accompany a

petition under 37 CFR 1.705(d). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand six hundred and seventy six **(1,676)** days.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,807,189 B2

DATED : Oct. 5, 2010

INVENTOR(S) : Hassan 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 (1511) days

Delete the phrase "by 1511 days" and insert – by 1676 days--

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PANITCH SCHWARZE BELISARIO & NADEL, LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,030,243	:	
Issue Date: April 18, 2006	:	
Application No. 10/976,109	:	NOTICE
Filed: October 28, 2004	:	
Patentee(s): Ye Wu, et. al.	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on November 23, 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. A courtesy copy of this Notice is being mailed to the address given in the present request.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Scott A. Whitaker
BioNumerik Pharmaceuticals, Inc.
8122 Datapoint Drive – Suite 1250
San Antonio, TX 78229

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/30/12

TO SPE OF : ART UNIT 1784

SUBJECT : Request for Certificate of Correction for Appl. No.: 10976179 Patent No.: 7923109

CofC mailroom date: 01/04/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

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

Comments: _____

_____

_____

_____

_____

1784

SPE **Art Unit**

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:
Hansen et al.	:
Application No. 10/976,206	: DECISION ON PETITIONS
Filed: October 28, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. BP3976	: UNDER 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application, as set forth in the concurrently filed Application Data Sheet (ADS) and the petition under 37 CFR 1.182 regarding acceptance of Correction of Typographical Error to Priority Claim under 35 U.S.C. § 119(e), filed March 31, 2011,

The petition under 37 CFR 1.182 is **DISMISSED**.

Petitioner asserts that "Applicant respectfully submits that the typographical error was readily identifiable as such, due to the duplication of provisional serial numbers."

However, a review of USPTO records reveals that a proper claim for priority under 37 CFR §§ 1.78(a)(6) was not included in the first sentence of the specification as originally filed on October 28, 2004, nor was an ADS submitted. Applicant failed to identify the prior-filed provisional application being requested at this time. Therefore, the Office properly processed the information given by applicant, as shown in its absence on the Original Filing Receipt.

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted

after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an ADS, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Additionally, petitioner has submitted $400.00 towards the required petition fee of $1,410.00. The shortage of $1,010.00 will be charged to petitioner's deposit account as authorized March 31, 2011.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Any 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 2611 for appropriate action on the ADS submitted March 31 2011, including consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/976,206	10/28/2004	2611	790	BP3976	14	2

CONFIRMATION NO. 7668

CORRECTED FILING RECEIPT

51472
GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

OC000000047778704

Date Mailed: 05/20/2011

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

Applicant(s)

Christopher J. Hansen, Sunnyvale, CA;
Joonsuk Kim, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number 51472

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/544,605 02/13/2004
and claims benefit of 60/545,854 02/19/2004
and claims benefit of 60/568,914 05/07/2004
and claims benefit of 60/575,909 06/01/2004
and claims benefit of 60/587,068 07/12/2004
and claims benefit of 60/573,781 05/24/2004

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

If Required, Foreign Filing License Granted: 01/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/976,206**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

REDUCED LATENCY CONCATENATED REED SOLOMON-CONVOLUTIONAL CODING FOR MIMO WIRELESS LAN

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6962157
Issue Date: November 8,2005
Application No. 10976220
Filed: October 28,2004
Attorney Docket No. P-0068US

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

This is a decision on the electronic petition, filed December 15,2010 ,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 15,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,962,157	2005-11-08	10/976,220	2004-10-28	70396-00004

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/michelleckim/	Date (YYYY-MM-DD)	2010-12-15
Name	Michelle C. Kim	Registration Number	51881

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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WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Patent No. 7,341,667	:	
Issued: 03/11/2008	:	
Application No. 10/976,519	:	NOTICE
Filed: 10/29/2004	:	
Attorney Docket No. 104331.120US2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 7, 2008.

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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
JAN 31 2012
OFFICE OF PETITIONS

In re Application of
Darabi
Application No. 10/976,575
Filed: October 29, 2004
Attorney Docket No. 16152US01
For: METHOD AND SYSTEM FOR PROCESS, VOLTAGE, AND TEMPERATURE (PVT) CORRECTION

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 13, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from eight hundred twenty-eight (828) days to nine hundred fifty (950) 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

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

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

On September 19, 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 828 days. The instant application for patent term adjustment was timely filed on December 13, 2011.

Applicant disputes the 1 day reduction for the submission of the response on January 2, 2009. Applicant states that as intended by 35 U.S.C. §54(b)(2)(c)(ii), the three-month date should be calculated from January 2, 2009, instead of January 1, 2011 as January 1, 2009 falls on a weekend. As such the response submitted on January 2, 2009 should be calculated as 0 days, not 1 days. The 1 day reduction will be removed.

Applicants' delay as of the mailing of the Notice of Allowance total is 0 days.

Office delay as of the mailing of the Notice of Allowance total is 829 days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is eight hundred twenty-nine **(829)** 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

Best Available Copy

Patent Term Adjustments

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

Application Number*: 10976575 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10976575

Application Filing Date	10/29/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	829
A Delays	829	PTO Manual Adjustment	1
B Delays	0	Applicant Delay (APPL)	1
C Delays	0	Total PTA (days)	829

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
89	01/29/2012		P028	Adjustment of PTA Calculation by PTO	1	0	
77	09/19/2011		MN/=.	Mail Notice of Allowance		0	
76	09/13/2011		OAR	Office Action Review		0	
75	09/13/2011		OAR	Office Action Review		0	
74	09/13/2011		OAR	Office Action Review		0	
73	09/13/2011		OAR	Office Action Review		0	
72	09/12/2011		OAR	Office Action Review		0	
71	09/12/2011		OAR	Office Action Review		0	
70	09/12/2011		OAR	Office Action Review		0	
69	09/12/2011		IREV	Issue Revision Completed		0	
68	09/12/2011		DVER	Document Verification		0	
67	09/12/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing		0	
66	09/12/2011		N/=.	Notice of Allowance Data Verification Completed		0	
65	09/12/2011		DOCK	Case Docketed to Examiner in GAU		0	
64	09/12/2011		EX.A	Examiner's Amendment Communication		0	
63	09/09/2011		EXIE	Interview Summary - Examiner Initiated		0	
62	09/09/2011		EX.R	Reasons for Allowance		0	
61	09/09/2011		CNTA	Allowability Notice		0	
60	06/29/2011		FWDX	Date Forwarded to Examiner		0	
59	06/16/2011		A...	Response after Non-Final Action		0	
58	03/17/2011		MCTNF	Mail Non-Final Rejection		0	
57	03/14/2011		CTNF	Non-Final Rejection		0	
56	02/11/2011		FWDX	Date Forwarded to Examiner		0	
53	02/11/2011		ABN9	Disposal for a RCE / CPA / R129		0	
55	02/10/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
54	02/10/2011		RCEX	Request for Continued Examination (RCE)		0	
52	02/10/2011		BRCE	Workflow - Request for RCE - Begin		0	
51	11/10/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
50	11/08/2010		CTFR	Final Rejection		0	
49	08/29/2010		FWDX	Date Forwarded to Examiner		0	
48	08/26/2010		A...	Response after Non-Final Action		0	
47	05/26/2010		MCTNF	Mail Non-Final Rejection		0	
46	05/24/2010		CTNF	Non-Final Rejection		0	
45	03/22/2010		FWDX	Date Forwarded to Examiner		0	
42	03/22/2010		ABN9	Disposal for a RCE / CPA / R129		0	
44	03/16/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
43	03/16/2010		RCEX	Request for Continued Examination (RCE)		0	
41	03/16/2010		BRCE	Workflow - Request for RCE - Begin		0	
40	12/16/2009	12/06/2009	MCTFR	Mail Final Rejection (PTOL - 326)	10	37	
39	12/15/2009		CTFR	Final Rejection		0	
38	09/26/2009		FWDX	Date Forwarded to Examiner		0	
37	08/06/2009		A...	Response after Non-Final Action		0	
36	05/11/2009	05/02/2009	MCTNF	Mail Non-Final Rejection	9	30	
35	05/11/2009		CTNF	Non-Final Rejection		0	
34	02/26/2009		FWDX	Date Forwarded to Examiner		0	
33	02/26/2009		MAPCR	Mail Appeals conf. Reopen Prosec.		0	
32	02/25/2009		APCR	Pre-Appeals Conference Decision - Reopen Prosecution		0	
31	01/02/2009		AP.C	Request for Pre-Appeal Conference Filed		0	
30	01/02/2009	01/01/2009	N/AP	Notice of Appeal Filed	1	29	
29	10/01/2008		MCTFR	Mail Final Rejection (PTOL - 326)		0	
28	09/26/2008		CTFR	Final Rejection		0	
26	07/11/2008		FWDX	Date Forwarded to Examiner		0	
27	06/18/2008		C602	Oath or Declaration Filed (Including Supplemental)		0	
25	06/18/2008		A...	Response after Non-Final Action		0	
24	03/18/2008	12/29/2005	MCTNF	Mail Non-Final Rejection	810	0.5	

23	03/13/2008	CTNF	Non-Final Rejection	0
21	03/04/2008	TI1050	Transfer Inquiry to GAU	0
20	03/03/2008	TI1050	Transfer Inquiry to GAU	0
19	10/17/2007	W525	Withdraw Flagged for 5/25	0
18	10/15/2007	F525	Flagged for 5/25	0
22	09/20/2007	IDSC	Information Disclosure Statement considered	0
17	09/20/2007	EIDS.	Electronic Information Disclosure Statement	0
16	09/20/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
15	08/31/2007	DOCK	Case Docketed to Examiner in GAU	0
14	06/25/2007	DOCK	Case Docketed to Examiner in GAU	0
13	03/23/2006	DOCK	Case Docketed to Examiner in GAU	0
12	03/22/2006	DOCK	Case Docketed to Examiner in GAU	0
11	04/26/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
9	04/26/2005	DOCK	Case Docketed to Examiner in GAU	0
10	02/18/2005	A.PE	Preliminary Amendment	0
8	12/10/2004	WROIPE	Application Return from OIPE	0
7	12/10/2004	ROIPE	Application Return TO OIPE	0
6	12/10/2004	OIPE	Application Dispatched from OIPE	0
5	12/10/2004	COMP	Application Is Now Complete	0
4	12/02/2004	L194	Cleared by OIPE CSR	0
3	12/02/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	11/11/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	10/29/2004	IEXX	Initial Exam Team nn	0
0.5	10/29/2004	EFILE	Filing date	0

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

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Patent No. 7,469,912	:	
Issue Date: December 30, 2008	:	
Application No. 10/976,791	:	DECISION ON PETITION
Filed: November 1, 2004	:	
Attorney Docket No. **1478.47905X00**	:	

This is a decision on the petition, filed, September 15, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Hitachi, Ltd., Tokyo (JP) and Unisia JKC Steering Systems Co., Ltd., Atsugi-shi (JP)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Hitachi, Ltd., Tokyo (JP) and Unisia JKC Steering Systems Co., Ltd., Atsugi-shi (JP)" are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson at (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
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P.O. BOX 1497
MADISON WI 53701-1497

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application :
Vallinen, et al. :
Application No. 10/976,895 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: November 1, 2004 :
Dkt. No.: 088245-1088 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 23, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 2,206 days, not 700 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

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JAMES J. XU
1029 OLMO COURT
SAN JOSE CA 95129

MAILED
NOV 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,110,106	:	
Issued: September 19, 2006	:	
Application No. 10/977,084	:	ON PETITION
Filed: October 28, 2004	:	
Attorney Docket No. CO-002	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 3, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

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

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

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

As to item (1), the statement is not acceptable as it is not properly signed.

The petition must be signed by:

1) An attorney or agent of record appointed in compliance with § 1.34(b);
2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of§ 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) **All of the applicants (§§ 1.42.1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application**

in accordance with §§ 3.71 and 3.73.

The instant petition was signed by only one of the two listed inventors. A renewed petition with the signatures of both inventors is required.

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

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

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

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

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BEVER HOFFMAN & HARMS, LLP
901 Campisi Way
Suite 370
Campbell CA 95008

MAILED
JAN 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,110,106	:	
Issue Date: September 19, 2006	:	
Application No. 10/977,084	:	ON PETITION
Filed: October 28, 2004	:	
Attorney Docket No. CO-002	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed December 15, 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 20, 2010 for failure to pay the 3 ½ year maintenance fee. Since the first 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 Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 01/11/2011

Applicant	: Oliver William Hardwicke Davies	: DECISION ON REQUEST FOR
Patent Number	: 7655119	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/977,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1269** 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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PEDERSEN & COMPANY, PLLC
P.O. BOX 2666
BOISE ID 83701

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of :
Brian D. Bandhauer :
Application No. 10/977,190 : ON PETITION
Filed: October 28, 2004 :
Attorney Docket No. 3828 :

This is a decision on the petition under 37 CFR 1.182, filed on December 10, 2008, which is being treated as a petition requesting that the requirement of 37 CFR 41.41(a)(1) be waived or suspended pursuant to 37 CFR 1.183 in order to file an amended reply brief after the two month response time.

The petition is **granted** to the extent indicated.

A reply brief was filed December 10, 2008, and resubmitted on February 17, 2009 and February 26, 2009. This reply was filed outside the two month period set forth in 37 CFR 41.41(a)(1). On February 26, 2009, the examiner entered and considered the reply brief. In view of the above, the examiner's consideration of the reply brief of December 10, 2008 will not be disturbed.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of	:	
Amoh et al.	:	DECISION ON
Application No. 10/977,219	:	PETITION
Filed: October 28, 2004	:	
Atty Docket No. 312762005300	:	

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

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a timely and proper reply to the final Office action mailed September 3, 2010. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A notice of appeal was filed on March 3, 2011. However, no appeal brief was filed thereafter. No further reply filed the application became abandoned. A courtesy Notice of Abandonment was mailed on October 14, 2011.

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

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 $1,345 extension of time fee submitted with

the petition on December 14, 2011 was submitted subsequent to the maximum extendable period for reply, this fee is unnecessary and is being refunded to the Deposit Account.

Technology Center AU 1632 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE (and submission) submitted on petition filed December 14, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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SEP 2 8 2010

In re Patent No. PIESCHEL ET AL. Issue Date: June 24, 2008 Appl No.: 10/977,254 Filed: October 29, 2004 For: DUMPING UTILITY CART	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed April 15, 2009 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.

D. Glenn Dayoan
Supervisory Patent Examiner
Art Unit 3612
Technology Center 3600

Patterson, Thuente, Skaar & Christensen, P.A.
80 South 8th Street
4800 IDS Center
Minneapolis, MN 55402-2100

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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THE WEBOSTAD FIRM, A PROFESSIONAL CORPORATION
150 NORTH WIGET LANE
SUITE 200
WALNUT CREEK CA 94598

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,006,398
Issue Date: February 28, 2006
Application No. 10/977,309
Filed: October 29, 2004
Attorney Docket No. P2352-D-1

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

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

Your fee deficiency submission under 37 CFR 1.28(c) 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 Change of Correspondence Address has been accepted.

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

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
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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DAVID AKER
23 SOUTHERN ROAD
HARTSDALE NY 10530

MAILED
DEC 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Gabor Blasko	:	
Application No. 10/977,322	:	DECISION ON PETITION
Filed: October 30, 2004	:	
Attorney Docket No. YOR920040382US1	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 5, 2010, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 6, 2010. A Notice of Abandonment was mailed 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 $1,620.00 and (3) a proper statement of unintentional delay.

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

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

The application file is being referred to Technology Center AU 2629 for appropriate action on the concurrently filed amendment.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/977,356	10/29/2004	Samir Ismail	50U7029.01	6949

36645 7590 12/01/2010
Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

EXAMINER
DUONG, THOMAS

ART UNIT	PAPER NUMBER
2445	

MAIL DATE	DELIVERY MODE
12/01/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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John L. Rogitz
SONY CORPORATION OF AMERICA
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO CA 92127

In re Application of: Samir ISMAIL et al.
Application No. 10/977,356
Filed: Oct 29, 2004
For: MESSAGING AND SERVICE SYSTEM FOR MOBILE COMPUTER

DECISION ON PETITION

This is a decision on the petition filed Sept 26, 2010 requesting a refund of the appeal fees.

The petition is **DENIED**.

Petitioner states that the denial of the refund requested for the appeal fees date Set 22, 2010 is erroneously allegation "change of purpose". Petitioner states that "the applicant did not pay fees for the examiner to consider something, **but for the Board to hear a case** review". The Petitioner further states "Refusing to refund fees lawfully paid for a service – Board review –...and requests a prompt refund for services – Board review - that were never rendered".

REVELANT APPLICATION HISTORY

A final rejection was mailed on Nov 13, 2009. Applicant submitted an after-final request for reconsideration on Dec 23, 2009. An advisory action was mailed to Applicant on April 13, 2010. On April 15, 2010, Applicant filed a Notice of Appeal, Appeal Brief, and a one month extension of time. On July 13, 2010, it appears that upon further consideration and review of the Appeal Brief, the Examiner responded to the Appeal Brief with an allowance. On July 21, 2010, the Applicant requested a refund for the Appeal fee. On Sept 21, 2010, the Office mailed a denial of the request. On Sept 26, 2010, the instant petition is filed.

STATUE, REGULATION AND PROCEDURE

The relevant portions of the Statutes and Rules are reproduced below. Emphasis is added to draw attention to the critical phrases.

35 USC § 41 states:

(a) GENERAL FEES. — The Director **shall** charge the following fees:

*****

(6) APPEAL FEES. —
(A) **On filing an appeal** from the examiner to the Board of Patent Appeals and Interferences,

35 USC § 42 states:

(d) The Director may refund any fee paid by **mistake** or any amount paid in **excess** of that required.

35 USC § 133 states that:

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR 41.37 (a)(2) states in part:

The brief **must be accompanied by the fee** set forth in § 41.20(b)(2)

37 CFR § 1.183 states that:

In an extraordinary situation, when justice re-quires, any requirement of the **regulations in this part which <u>is not a requirement of the statues</u> 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(h).

MPEP 714. 13 states:

If no appeal has been filed within the period for reply and no amendment has been submitted to make the application allowable or which can be entered in part (see MPEP § 714.20), the application stands abandoned.

MPEP 1207 states:

After an appeal brief under 37 CFR 41.37 has been filed and the examiner has considered the issues on appeal, the examiner may:
(A) reopen prosecution to enter a new ground of rejection with approval from the supervisory patent examiner (see MPEP § 1207.04);

(B) withdraw the final rejection and allow the application if the examiner determines that the rejections have been overcome and no new ground of rejection is appropriate; or

DECISION

The applicable statute, 35 USC § 42(d), permits a refund of "any fee paid by mistake or any amount paid in excess of that required." Thus, the Office may refund: (1) a fee paid when no fee is required (a fee paid by mistake); or (2) any fee paid in excess of the amount of fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to fee payment). However, Petitioner has not shown, nor does inspection of the record reveal, that the fees in question were paid either in excess or by mistake. Since the fees were paid in the proper amounts, the fees were not paid in excess. Thus, the only issue outstanding is whether the fees were paid by mistake. The Appeal fee was owed at the time it was paid, and it was paid by a duly authorized representative of the applicant. The fee paid on April 15, 2010 was necessary prevent the application from going abandoned and to respond to the Final office action mailed on Nov 13, 2009. Such is not a mistake within the meaning of the statutes and regulations.

The Commissioner is without discretion with respect to collection of the fees required by 35 USC 41(a)(6). Thus, the fees obtained the desired result: filing of the Appeal Brief. ***35 USC 41(a)(6) sets forth that the Director "shall" charge certain fee amounts for the filing of an appeal brief, therefore, the USPTO has no authority to waive the fee.*** Petitioner is reminded that it is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). Further, as the fee to file an Appeal Brief is a requirement of the statute, it cannot be waived. The payment of the statutory fee is obligatory upon the applicant and collection of the statutory fee is likewise obligatory upon the Office. Boyden v. Commissioner of Patents, 441 F.2d 1041, 1043, 168 USPQ 680, 681 (D.C. Cir.), cert denied 404 US 842, 868, 171 USPQ 312 (1971); see also Giuliani v. United States, 8 USPQ2d 1095 (D. Hi 1988), aff'd mem., 878 F.2d 1444 (Fed. Cir. 1989). The Office has no discretion to proceed in the absence of such payment. Boyden, supra.

While Petitioner is seemingly unhappy with the Examiner's action, allowing the application following a review of the Appeal Brief prior to a Board review; the fees that were subsequently paid were required at the time they were paid, and such does not warrant refund of any of the fees. See In re Hartman, 145 USPQ 402 (Comm'r Pat. 1965). Rather, the fact that the fee was necessary at the time it was paid warrants a conclusion that no error in payment was involved. See Meissner v. U.S., 108 USPQ 6 (D.C. Cir. 1955).

Since the issue fee was paid on Sept 29, 2010, this application is being forwarded to the Office of Publication for further processing. If Petitioner is considering to file a petition under 37 CFR §

1.183 to waive the Appeal fees, the Petition must be filed within two months from the mailing date of this decision and accompanied by the petition fee set forth in 37 CFR § 1.17(h).

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

/Nancy Le/

Nancy Le, Director
Technology Center 2400
Network, Multiplexing, Cable and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PATTERSON THUENTE CHRISTENSEN PEDERSEN PA
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re
Haines, et al.
Application No. 10/977,365
Filed: October 29, 2004
Attorney Docket No. 3293.03US13

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 27, 2010.

The fee deficiency submission under 37 CFR 1.28 of $755 for the issue fee is hereby **accepted**.

The change of status to large entity has been entered.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

MAILED
OCT 26 2010
OFFICE OF PETITIONS

In re Application of	:	
Timothy G. Haines et al	:	
Application No. 10/977,365	:	DECISION ON PETITION
Filed: October 29, 2004	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 3293.03US13	:	

This is a decision on the petition under 37 CFR 1.313(c), filed October 25, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

The petition under 37 CFR 1.313(c) was received on October 25, 2010; however, the Request for Continued Examination and the Information Disclosure Statement have not been received.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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) 273-0025**
Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
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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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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NOV 01 2010
OFFICE OF PETITIONS

In re Application of :
Timothy G. Haines et al :
Application No. 10/977,365 : ON PETITION
Filed: October 29, 2004 :
Attorney Docket No. 3293.03US13

This is a decision on the petition, filed October 29, 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 May 14, 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 3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND OH 44145

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of
Cardwell, et al.
Application No. 10/977,413
Filed: October 29, 2004
Attorney Docket No. OCS.P.1300

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision, or such period of time as may be determined by the Board of Patent Appeals and Interferences.

This application became abandoned November 4, 2010 for failure to timely submit a proper reply to the final Office action mailed August 3, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. This decision precedes Notice of Abandonment.

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

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

This application is being referred to Technology Center AU 3688 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
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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OFFICE OF PETITIONS

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

In re Application of Menzo Wentink Application No. 10/977,470 Filed: November 1, 2004 Attorney Docket No. 088245-2629	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78 filed on June 29, 2010, to change the relationship between the present application and a prior filed application set forth set forth in the concurrently filed amendment.

The petition is **dismissed**.

Petitioner should note that before the present request can be granted, the incorporation by reference statement contained in the amendment filed on June 29, 2010 must be removed. In this regard, the amendment incorporates by reference Provisional Application No. 60/388,569, which is improper[1].

Petitioner should note that the petition filed on March 16, 2010 was granted in a decision mailed May 10, 2010, because the amendment filed on March 16, 2010 did not incorporate Provisional Application No. 60/388,569 by reference. Therefore, before the relationship between the present application and Application No. 10/880,367 can be changed, either an amendment removing the incorporation by reference statement or a supplemental Application Data Sheet (ADS) is required.

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[1] 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).

Since a petition fee is not required to change the relationship between applications, the $1,410 petition fee submitted on June 29, 2010 will be credited to petitioner's credit card.

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
40l Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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MADISON, WI 53701-1497

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DEC 13 2010
OFFICE OF PETITIONS

In re Application of
Menzo Wentink
Application No. 10/977,470
Filed: November 1, 2004
Attorney Docket No. 088245-2629

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78 filed on August 19, 2010, to change the relationship between the present application and a prior filed application set forth in the concurrently filed amendment.

A decision was mailed on August 5, 2010, in which the petition filed on June 29, 2010, to change the relationship was dismissed due to the improper incorporation by reference of Provisional Application No. 60/388,569. Since the incorporation by reference statement was removed from the amendment submitted on August 19, 2010, the petition is **dismissed as moot**[1].

The application is being referred to Technology Center AU 1751 for appropriate action on the response to the non-final Office action mailed June 14, 2004, including consideration of the claim for benefit under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application.

Any questions concerning this matter may be directed to undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

[1] Petitioner should note that no petition under 37 CFR 1.78(a)(3) is required when applicant is changing the relationship in a benefit claim.

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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
10/977,470	11/01/2004	2474	6906	088245-2629	37	8

CONFIRMATION NO. 7743

CORRECTED FILING RECEIPT

23524
FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

OC000000044782079

Date Mailed: 12/02/2010

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

Applicant(s)

Menzo Wentink, Utrecht, NETHERLANDS;

Assignment For Published Patent Application

GlobespanVirata, Inc., Red Bank, NJ

Power of Attorney: The patent practitioners associated with Customer Number 23524

Domestic Priority data as claimed by applicant

This application is a CIP of 10/880,367 06/30/2004
which is a CIP of 10/353,391 01/29/2003 PAT 6,791,962
which claims benefit of 60/388,569 06/12/2002
This application 10/977,470
claims benefit of 60/515,701 10/31/2003

Foreign Applications

If Required, Foreign Filing License Granted: 01/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/977,470**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

AUTOMATIC PEER DISCOVERY

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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OFFICE OF PETITIONS

In re Application of	:	
Menzo Wentink	:	
Application No. 10/977470	:	ON REQUEST FOR
Filing or 371(c) Date: 11/01/2004	:	RECONSIDERATION OF
Atty Docket No.:	:	PATENT TERM ADJUSTMENT
088245-2629	:	

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 March 30, 2011. Applicants submit that the correct Patent Term Adjustment is 1148 days, not 811 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Thomas Wayne Littman et al. :
Application No. 10/977,541 : ON PETITION
Filed: October 29, 2004 :
Attorney Docket No. 7912P012 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 2, 2009, 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 December 24, 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 March 25, 2009. A Notice of Abandonment was mailed on July 10, 2009.

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

As to item (1), the petition indicates that a RCE (Request for Continued Prosecution) was filed along with the amendment. There is no record of a RCE or fee, being filed in this application.

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

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas Wayne Littman et al. :
Application No. 10/977,541 :
Filed: October 29, 2004 :
Attorney Docket No. 7912P012 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 2011, to revive the above-identified application. A certificate of mailing dated March 31, 2011. The renewed petition was timely received.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, December 24, 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 25, 2008. A Notice of Abandonment was mailed on July 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

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

This application is being referred to Technology Center AU 2625 for appropriate action by the Examiner in the normal course of business on the reply received April 5, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Date Mailed: October 25, 2010
Patent No. : 7,806,132 B2
Ser. No. :11/397949
Issued :October 5, 2010
Inventor(s) Theodore G. Paraskevakos
Title METHOD AND DEVICE FOR TAPING A PIPELINE

Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Pillsbury Winthrop Shaw Pittman LLP
P.O. Box 10500
McLean, VA 22102

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:	
RIEHL, MARK EDWARD	:	
Application No.: 10/977734	:	DECISION ON
Filing or 371(c) Date: October 29, 2004	:	PETITION
Attorney Docket Number: **NNI-0050**	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR 1.81 (a), received in the United States Patent and Trademark Office (USPTO) May 4, 2010.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit the Issue Fee and Publication Fee as required by the Notice of Allowance, mailed January 12, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 27, 2010.

Petitioner states that the issue fee and publication fee were timely submitted. As evidence, petitioner submitted a copy of the previously filed correspondence which included a completed Certificate of Mailing and a statement which attests to the previous mailing.

In view of the above, the holding of abandonment is hereby withdrawn and the application has been restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1499.

Kendrick Spruill
Office of Data Management

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OFFICE OF PETITIONS

John C. McMahon
PO Box 30069
Kansas City MO 64112

In re Application of :
Pilar De Frutos ESCRIG et al. :
Application No. 10/977,837 : DECISION ON PETITION
Filed: October 29, 2004 :
Attorney Docket No. 10,495 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified 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 July 21, 2008, 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 41.37(b). As no claim was allowed, the application became abandoned on September 22, 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 and Appeal Brief fee, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely submit an Appeal Brief following the filing of a Notice of Appeal on July 21, 2008, is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272 - 4914.

This application is being referred to the Technology Center Art Unit 1797 for processing the Appeal Brief filed concurrently with the instant petition.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

In re Patent No. 7,583,947
Issued: September 1, 2009
Application No. 10/977,869
Filed: October 29, 2004
Attorney Docket No. **16234US01**

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

This is a decision on the REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH filed on May 21, 2010, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 494 days to 532 days.

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

On March 1, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On April 21, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 494 days.

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by one (1) day in that the Office action response was filed on the first business day after a deadline falling on a weekend or holiday and thus was not late.

Applicant's arguments have been considered, but not found to be persuasive.

Rule 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in

> which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. 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 January 12, 2009 and the response was therefore due on April 12, 2009. April 12, 2009 was a weekend and thus, the response was received on April 13, 2009 which is three months and one day later. As such, a reduction of one day was assessed. Patentees have argued that this is improper, as April 12, 2009 fell on a weekend. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[1] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[2] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

Additionally, Applicants are contesting the application of 37 CFR § 1.704(c)(10) for a reduction of 36 days due to the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the reduction in question, after the mailing of the Notice of Allowance was a "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE", filed July 28, 2009.

37 CFR § 1.704(c)(10) provides that:

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

[1] "With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

[2] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

(ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

A review of the application record reveals that the reduction of 36 days was based on the filing after allowance of a "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE". It is concluded that the patent term adjustment should not have been reduced by 36 days.

Finally, the total patent term adjustment. The period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 505 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 29, 2007 and ends on January 2, 2008, the day before the RCE was filed, and the B delay is 65 (not 66) days. See 35 U.S.C. 154(b)(1)(B)(i).

In view thereof, the patent term adjustment indicated on the patent should have been **530** (505 "A delay" days plus 65 "B delay" days minus 40 applicant delay days) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred thirty (530) 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 : 7,583,947 B2

DATED : September 1, 2009

INVENTOR(S) : Meng-An (Michael) Pan

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 (429) days

Delete the phrase "by 429 days" and insert – by 530 days--

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P.O. Box 1450

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BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE, NY 13202-1355

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Dan V. GOIA, et al	:	
Application No. 10/978,154	:	ON PETITION
Filed: October 29, 2004	:	
Attorney Docket No. 95719-010900	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 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 January 9, 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 April 10, 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) the required statement of unintentional delay have been received.

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 Power of Attorney filed March 29, 2010, has been accepted and made of record.

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

This application is being referred to Technology Center AU 1793 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/978,154	10/29/2004	Dan V. Goia	95719-010900

CONFIRMATION NO. 1778

POWER OF ATTORNEY NOTICE

21324
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

OC000000043202722

Date Mailed: 08/25/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

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

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UNITED STATES 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
10/978,154	10/29/2004	Dan V. Goia	95719-010900

CONFIRMATION NO. 1778

POA ACCEPTANCE LETTER

28264
BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE, NY 13202-1355

OC000000043202811

Date Mailed: 08/25/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 7167081
Issue Date: January 23,2007
Application No. 10978312
Filed: October 14,2004
Attorney Docket No.

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

This is a decision on the electronic petition, filed April 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 20,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,167,081	2007-01-23	10/978,312	2004-10-14	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric L. Lane/	Date (YYYY-MM-DD)	2011-04-20
Name	Eric L. Lane	Registration Number	56399

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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FRANK ROSENBERG
P.O. BOX 29230
SAN FRANCISCO CA 94129-0230

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Mark S.F. Clarke et al.	:	
Application No. 10/978,333	:	DECISION ON PETITION
Filed: November 2, 2004	:	
Attorney Docket No. USRA-SWCNT-VI(DIV)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 24, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 24, 2010. Accordingly, the date of abandonment of this application is September 25, 2010. A Notice of Abandonment was mailed on October 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : November 30, 2011

In re Application of :

Julia Lehto

Application No : 10978598

Filed : 01-Nov-2004

Attorney Docket No : 037145-7301

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 30, 2011

The request is **APPROVED.**

The request was signed by Ellis, William (registration no. 26874) on behalf of all attorneys/agents associated with Customer Number 27433 . All attorneys/agents associated with Cusotmer Number 27433 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	NOKIA CORPORATION
Name2	
Address 1	KEILALAHDENTIE 4
Address 2	
City	ESPOO
State	
Postal Code	FIN-00045
Country	FI

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	10978598
Filing Date	01-Nov-2004
First Named Inventor	Julia Lehto
Art Unit	2176
Examiner Name	WILLIAM HUTTON JR
Attorney Docket Number	037145-7301
Title	Word completion dictionary

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 27433

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	NOKIA CORPORATION
Address	KEILALAHDENTIE 4
City	ESPOO
State	
Postal Code	FIN-00045
Country	FI

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Ellis, William/
Name	Ellis, William
Registration Number	26874

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Howard, et al. :
Application No. 10/978,680 : ON APPLICATION FOR
Filed: October 29, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 038469-0227 (P-20178.00) :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT APPLICATION UNDER 37 C.F.R § 1.705(b)" filed December 10, 2010. Applicants submits that the patent term adjustment to be indicated on the patent is seven hundred and seventy-six (776) days, not five hundred and forty-seven (547) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

---

[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.

It is further noted that a Request for Continued Examination (RCE) was filed in this application on September 29, 2008.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED.**

Applicants' state that:

> …the Patent Office's calculation failed to include a reduction of patent term adjustment of 68 days due to the information disclosure statement that Applicants filed on March 22, 2010, after the response to a non-final Office action filed on January1 3, 2010.

Excerpt taken from "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT APPLICATION UNDER 37 C.F.R § 1.705(b)" filed December 10, 2010, pg. 2.

Applicants' argument has been considered but is well taken. A review of the application file history reveals that the reduction to the patent term adjustment of 68 days is warranted pursuant to 37 CFR 1.704(c)(8). A review of the application history reveals that an Information Disclosure Statement (IDS) was filed on March 22, 2010, 68 days after a response was filed on January 13, 2010. 37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

37 CFR 1.704(d) provides that:

> (d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

It is undisputed that the Information Disclosure Statement filed March 22, 2010, was filed 68 days after the response was filed on January 13, 2010. The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. Further review of the Information Disclosure Statement filed March 22, 2010, reveals the IDS did not included the proper statement under § 1.704(d). Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of sixty-eight (68) days was entered beginning on the day after the date the initial reply was filed, January 14, 2010, and ending on the date the supplemental reply or other such paper was filed, March 22, 2010.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is four hundred and ninety-nine (499) days.

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Patent Term Adjustments

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

Application Number*: 10978680 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10978680

Application Filing Date	10/29/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	727
A Delays	727	PTO Manual Adjustment	-68
B Delays	0	Applicant Delay (APPL)	160
C Delays	0	Total PTA (days)	499

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
160	12/29/2010		P028	Adjustment of PTA Calculation by PTO		68	0
145	09/13/2010		MN/=.	Mail Notice of Allowance			0
144	09/13/2010		IREV	Issue Revision Completed			0
143	09/13/2010		DVER	Document Verification			0
142	09/13/2010		EX.A	Examiner's Amendment Communication			0
141	09/13/2010		N/=..	Notice of Allowance Data Verification Completed			0
140	09/13/2010		CNTA	Notice of Allowability			0
139	09/07/2010		IDSC	Information Disclosure Statement considered			0
138	09/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
135	08/15/2010		FWDX	Date Forwarded to Examiner			0
132	08/15/2010		ABN9	Disposal for a RCE / CPA / R129			0
134	08/12/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
133	08/12/2010	07/13/2010	RCEX	Request for Continued Examination (RCE)		30	120
131	08/12/2010		XT/G	Request for Extension of Time - Granted			0
130	08/12/2010		BRCE	Workflow - Request for RCE - Begin			0
129	06/24/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
128	06/23/2010		CTAV	Advisory Action (PTOL-303)			0
127	06/16/2010		INHY	case Inherited			0
126	06/16/2010		DOCK	Case Docketed to Examiner in GAU			0
123	06/14/2010		FWDX	Date Forwarded to Examiner			0
137	06/11/2010		IDSC	Information Disclosure Statement considered			0
125	06/11/2010		RCAP	Reference capture on IDS			0
124	06/11/2010		M844	Information Disclosure Statement (IDS) Filed			0
122	06/11/2010		A.NE	Amendment after Final Rejection			0
121	06/11/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
120	04/13/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
119	04/09/2010		CTFR	Final Rejection			0
118	03/22/2010		RCAP	Reference capture on IDS			0
117	03/22/2010		M844	Information Disclosure Statement (IDS) Filed			0
116	03/22/2010		IDSC	Information Disclosure Statement considered			0
113	03/22/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
109	02/10/2010		FWDX	Date Forwarded to Examiner			0
115	01/13/2010		IDSC	Information Disclosure Statement considered			0
112	01/13/2010		RCAP	Reference capture on IDS			0
111	01/13/2010		M844	Information Disclosure Statement (IDS) Filed			0
110	01/13/2010		C614	New or Additional Drawing Filed			0
108	01/13/2010		A...	Response after Non-Final Action			0
105	01/13/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
114	11/05/2009		IDSC	Information Disclosure Statement considered			0
107	11/05/2009		RCAP	Reference capture on IDS			0
106	11/05/2009		M844	Information Disclosure Statement (IDS) Filed			0
102	11/05/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
101	10/13/2009		MCTNF	Mail Non-Final Rejection			0
100	10/08/2009		CTNF	Non-Final Rejection			0
104	09/02/2009		RCAP	Reference capture on IDS			0
103	09/02/2009	06/26/2009	M844	Information Disclosure Statement (IDS) Filed		68	93
99	09/02/2009		IDSC	Information Disclosure Statement considered			0
97	09/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
94	08/26/2009		FWDX	Date Forwarded to Examiner			0
98	06/26/2009		IDSC	Information Disclosure Statement considered			0
96	06/26/2009		RCAP	Reference capture on IDS			0
95	06/26/2009		M844	Information Disclosure Statement (IDS) Filed			0
93	06/26/2009		A...	Response after Non-Final Action			0
92	06/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
91	06/10/2009		DOCK	Case Docketed to Examiner in GAU			0
86	04/02/2009		MCTNF	Mail Non-Final Rejection			0

85	03/30/2009		CTNF	Non-Final Rejection			0
90	03/23/2009		RCAP	Reference capture on IDS			0
89	03/23/2009	01/20/2009	M844	Information Disclosure Statement (IDS) Filed		62	73
84	03/23/2009		IDSC	Information Disclosure Statement considered			0
83	03/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
88	02/26/2009		RCAP	Reference capture on IDS			0
87	02/26/2009		M844	Information Disclosure Statement (IDS) Filed			0
82	02/26/2009		IDSC	Information Disclosure Statement considered			0
77	02/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
74	01/26/2009		FWDX	Date Forwarded to Examiner			0
81	01/20/2009		IDSC	Information Disclosure Statement considered			0
76	01/20/2009		RCAP	Reference capture on IDS			0
75	01/20/2009		M844	Information Disclosure Statement (IDS) Filed			0
73	01/20/2009		A...	Response after Non-Final Action			0
72	01/20/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
71	10/29/2008		MCTNF	Mail Non-Final Rejection			0
70	10/27/2008		CTNF	Non-Final Rejection			0
65	10/05/2008		FWDX	Date Forwarded to Examiner			0
63	10/05/2008		FWDX	Date Forwarded to Examiner			0
61	10/05/2008		ABN9	Disposal for a RCE / CPA / R129			0
69	09/29/2008		IDSC	Information Disclosure Statement considered			0
64	09/29/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
62	09/29/2008		RCEX	Request for Continued Examination (RCE)			0
60	09/29/2008		RCAP	Reference capture on IDS			0
59	09/29/2008		M844	Information Disclosure Statement (IDS) Filed			0
58	09/29/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
57	09/29/2008		BRCE	Workflow - Request for RCE - Begin			0
56	07/09/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
55	07/07/2008		CTFR	Final Rejection			0
48	06/11/2008		FWDX	Date Forwarded to Examiner			0
51	05/23/2008		IDSC	Information Disclosure Statement considered			0
50	05/23/2008		RCAP	Reference capture on IDS			0
49	05/23/2008	05/23/2008	M844	Information Disclosure Statement (IDS) Filed			47
47	05/23/2008		A...	Response after Non-Final Action			0
46	05/23/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
45	05/13/2008		DOCK	Case Docketed to Examiner in GAU			0
44	03/11/2008		MCTNF	Mail Non-Final Rejection			0
43	03/05/2008		CTNF	Non-Final Rejection			0
30	02/20/2008		FWDX	Date Forwarded to Examiner			0
29	01/25/2008		ELC.	Response to Election / Restriction Filed			0
28	12/26/2007	12/29/2005	MCTRS	Mail Restriction Requirement	727		-1
27	12/21/2007		CTRS	Requirement for Restriction / Election			0
26	11/15/2007		DOCK	Case Docketed to Examiner in GAU			0
25	10/17/2007		W525	Withdraw Flagged for 5/25			0
24	10/15/2007		F525	Flagged for 5/25			0
23	10/02/2007		DOCK	Case Docketed to Examiner in GAU			0
31	04/24/2007		IDSC	Information Disclosure Statement considered			0
22	04/24/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
21	04/24/2007		RCAP	Reference capture on IDS			0
20	04/24/2007		M844	Information Disclosure Statement (IDS) Filed			0
32	01/23/2007		IDSC	Information Disclosure Statement considered			0
19	01/23/2007		RCAP	Reference capture on IDS			0
18.7	01/23/2007		M844	Information Disclosure Statement (IDS) Filed			0
18	01/23/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
33	09/28/2006		IDSC	Information Disclosure Statement considered			0
17	09/28/2006		RCAP	Reference capture on IDS			0
16.7	09/28/2006		M844	Information Disclosure Statement (IDS) Filed			0
16	09/28/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
34	04/24/2006		IDSC	Information Disclosure Statement considered			0
15	04/24/2006		RCAP	Reference capture on IDS			0
14.7	04/24/2006		M844	Information Disclosure Statement (IDS) Filed			0
14	04/24/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
13	03/16/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	03/16/2005		DOCK	Case Docketed to Examiner in GAU			0
9	02/17/2005		WROIPE	Application Return from OIPE			0
8	02/17/2005		ROIPE	Application Return TO OIPE			0
7	02/17/2005		OIPE	Application Dispatched from OIPE			0
6	02/17/2005		COMP	Application Is Now Complete			0
5	02/15/2005		L128	Cleared by L&R (LARS)			0
4	12/03/2004		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	12/03/2004		CLSS	CASE CLASSIFIED BY OIPE			0
2	11/15/2004		SCAN	IFW Scan & PACR Auto Security Review			0
35	10/29/2004		IDSC	Information Disclosure Statement considered			0
11	10/29/2004		RCAP	Reference capture on IDS			0
10.7	10/29/2004		M844	Information Disclosure Statement (IDS) Filed			0
10	10/29/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
1	10/29/2004		IEXX	Initial Exam Team nn			0

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Paper No.

FOLEY & LARDNER LLP
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MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,642,013	:	DECISION ON REQUEST
Howard et al.	:	FOR
Issue Date: January 5, 2010	:	RECONSIDERATION OF
Application No. 10/978,681	:	PATENT TERM ADJUSTMENT
Filed: October 29, 2004	:	and
Atty Docket No. 038469-0226	:	NOTICE OF INTENT TO ISSUE
(P-21021.00)	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 15, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred twenty-nine (929) 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 nine hundred eighteen **(918)** days.

Patentee's calculation of the over 3 year period as 339 days is incorrect. 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 29, 2007, and ends on October 1, 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 338 not 339 days.

Patentee notes correctly that the applicant delay should be increased by 44 days for applicant delay pursuant to 37 CFR 1.704(c)(8). After filing an amendment on July 20, 2009, Information Disclosure Statement (IDS)s were filed on August 3, 2009 and September 2, 2009. Neither IDS was expressed requested

by the examiner within the meaning of 37 CFR 1.704(c)(8) nor did either contain a 1.704(d) statement.

Moreover, a review of the record reveals that the patent term adjustment fails to account for an additional applicant delay pursuant to 37 CFR 1.704(c)(10). Specifically, after the mailing of the notice of allowance on September 22, 2009, on November 23, 2009, applicant filed an additional IDS. The Office responded to this IDS on December 2, 2009. Accordingly, additional periods of reduction of 44 days and 10 days have been entered.

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 eighteen **(918)** days.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,642,013 B2

DATED : **January 5, 2010** **DRAFT**

INVENTOR(S) : Howard 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 775 days

Delete the phrase "by 775 days" and insert – by 918 days--

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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AUG 04 2011

OFFICE OF PETITIONS

In re Patent No.: 7,232,571	:	
Issue Date: 19 June, 2007	:	
Application No. 10/978,726	:	DECISION
Filed: 1 November, 2004	:	
Attorney Docket No. 19374-502 NATL CON 1	:	

This is a decision on the petition filed on 27 June, 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.: 7,232,571
Application No. 10/978,726

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

---

and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 27 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,638,981	:	DECISION ON REQUEST
Matsuda	:	FOR RECONSIDERATION OF
Issue Date: December 29, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/978,729	:	and
Filed: November 1, 2004	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 9281-4943	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty (530) days. The petition was timely filed within one month of the mailing of a Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed April 21, 2010. As required by the April 21, 2010 decision, deposit account no. 23-1925 will be charged the required $200.00 fee under 37 CFR 1.18(e).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty (530) days is **granted to the extent indicated herein.**

The Office concurs with patentee's assertion that the Office made a double adjustment with respect to the erroneously charged 93 day reduction in connection with the re-mailing of the February 9, 2007 Office action on June 12, 2007.

In light thereof, the correct patent term adjustment is 529 days, which is the sum of 462 [404 + 36 + 22] days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 129 days of B Delay and reduced by 62 days for Applicant delay. This equation is identical to the equation found on page 3 of the petition. However, due to a mathematical error, patentee arrived at 530 days as the final calculation of patent term adjustment.

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

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

The 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 twenty-nine (529)** 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 : 7,638,981 B2

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

INVENTOR(S) : Matsuda

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 400 days

Delete the phrase "by 400 days" and insert – by 529 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO CA 92101

In re Patent No. 7,529,193	: DECISION GRANTING PETITION
Issue Date: May 5, 2009	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/978,903	: REQUEST FOR CERTIFICATE OF
Filed: November 1, 2004	: CORRECTION
Attorney Docket No. 112174-009CON	:

This is a decision on the petition, filed January 20, 2012, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 by way of a certificate of correction.

The petition is **granted**.

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

The instant application was filed November 1, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See, MPEP 1481.

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

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Receipt is hereby acknowledged of the $1,410 surcharge fee, as well as the $100 certificate of correction fee.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3205.

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

Alesia M. Brown
Attorney Advisor
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
10/978,903	11/01/2004	2416	1360	112174-009CON	35	2

CONFIRMATION NO. 2575

CORRECTED FILING RECEIPT

27189
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO, CA 92101

OC000000052269225

Date Mailed: 01/30/2012

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

Applicant(s)

Ofer Zimmerman, Modiin, ISRAEL;
Kenneth L. Stanwood, Cardiff by the Sea, CA;
Yair Bourlas, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number 27189

Domestic Priority data as claimed by applicant

This application is a CON of 09/783,671 02/14/2001 ABN
which is a CIP of 09/316,518 05/21/1999 PAT 6925068
This application 10/978,903
is a CIP of 10/848,470 05/17/2004 PAT 7548534
which is a CON of 09/613,434 07/11/2000 PAT 6785252
which is a CIP of 09/316,518 05/21/1999 PAT 6925068

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: 01/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/978,903**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR BANDWIDTH REQUEST/GRANT PROTOCOLS IN A WIRELESS COMMUNICATION SYSTEM

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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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Application	:	
Howard, et al.	:	
Application No. 10/979,043	:	PATENT TERM ADJUSTMENT
Filed: October 29, 2004	:	
Dkt. No.: 038469-0222 (P-21071.01)	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed March 5, 2010. This matter is being properly treated under 37 CFR 1.705(b).

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,323 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the

patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Patent of Tanaka	:	DECISION ON REQUEST
Patent No. 7,654,681	:	FOR RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/979,223	:	and
Filed: November 3, 2004	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 60188-994	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 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 one thousand three hundred thirty-six (1336) days.

The petition was timely filed within one month of the mailing of a Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed May 3, 2010. As required by the May 3, 2010 decision, deposit account no. 50-0417 will be charged the required $200.00 fee under 37 CFR 1.18(e).

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 three hundred thirty-six (1336) days is **granted to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of nine hundred fifty-two (952) days.

On February 2, 2010, the above-identified application matured into U.S. Patent No. 7,657,681 with a revised patent term adjustment of 799 days. On April 27, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On May 3, 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, informing patentee that the patent term adjustment had been recalculated as 1144 and that the Office would issue a certificate of correction if patentee did not file a request for reconsideration within 30 days/1 month. On June 3, 2010, patentee timely submitted the instant petition.

Patentee presents two arguments for the Office's consideration in reconsidering the patent term adjustment of 1144 days.

First, patentee argues that the 14 month delay period pursuant to 37 CFR 1.702(a)(1) for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) should be 861 days, not 669 days as asserted by the Office.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. *Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.* (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), the issue of the length of the 14 month delay period per 37 CFR 1.702(a)(1) is an issue that should have been raised via a petition under 37 CFR 1.705(b). It is an adjustment that should have been addressed after the mailing of the Notice of Allowance and prior to payment of the issue fee. As such, the Office will not revisit the 14 month delay period adjustment.

Second, patentee argues that the period of delay per 35 U.S.C. § 154(b)(1)(B) ("B Delay")is 537 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was filed April 24, 2009. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay

does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The maximum period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 537 days, beginning on November 4, 2007, the day after three years after the application's filing date, and ending on April 23, 2009, the day before the Request for Continue Examination (RCE) was filed. However, patentee fails to subtract the 192 day overlapping period of delay beginning on November 4, 2007 and ending on May 13, 2008 already accounted for under 35 U.S.C. § 154(b)(1)(A) ("A Delay").

Accordingly, the correct patent term adjustment is 952 days (669 days A Delay plus 537 days B-max Delay minus 192 overlapping days minus 62 days Applicant Delay).

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred fifty-two (952)** 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 : 7,657,681 B2

DATED : **February 2, 2010** **DRAFT**

INVENTOR(S) : Tanaka

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 799 days

Delete the phrase "by 799 days" and insert – by 952 days--

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WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Patent of Tanaka	:	DECISION ON REQUEST
Patent No. 7,654,681	:	FOR RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/979,223	:	and
Filed: November 3, 2004	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 60188-994	:	CERTIFICATE OF CORRECTION

This is a decision on the petition, filed October 12, 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 forty-four (1144) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred forty-four (1144) days is **granted.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand one hundred forty-four (1144) days.

The maximum period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 537 days, beginning on November 4, 2007, the day after three years after the application's filing date, and ending on April 23, 2009, the day before the Request for Continue Examination (RCE) was filed. Due to a computer glitch, the 192 day overlapping period of delay beginning on November 4, 2007 and ending on May 13, 2008 was subtracted from the 14 month delay period of 861 days, from January 4, 2006 to May 13, 2008, to reach 669 days of delay pursuant to 37 CFR 1.702(a)(1). The undersigned failed to notice the irregularity in the 14 month calculation and subtracted the 192 overlapping days a second time.

In view of the above, the correct patent term adjustment is one thousand one hundred forty-four (1144) days (831 days A Delay plus 537 days B-max Delay minus 192 overlapping days minus 62 days Applicant Delay).

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

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

The 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 forty-four (1144)** 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 : 7,657,681 B2

DATED : **February 2, 2010** **DRAFT**

INVENTOR(S) : Tanaka

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 799 days

Delete the phrase "by 799 days" and insert – by 1144 days--

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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7E-1 NO 100
ROOSEVELT RD
SEC 2
TAIPEI 100
TAIWAN ROC

In re
Chia-Chang Hsu
Application No. 10/979,342
Filed: November 1, 2004
Patent No. 7,391,364
Issued: June 24, 2008

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 8, 2011.

The fee deficiency submission under 37 CFR 1.28 of $640 for the 3.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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WILLIAM M. HANLON, JR.
YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084-3107

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael J. ANDRE	:	
Application No. 10/979,481	:	DECISION ON PETITION
Filed: November 2, 2004	:	
Attorney Docket No. 03FHS15 (ITT-601-A)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliant Appeal Brief (37 CFR 41.37(c)(1)), mailed May 14, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 15, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Supplemental Appeal Brief, (2) the petition fee of $1620; and (3) the required 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.

The Power of Attorney request filed August 12, 2009, has not been accepted because the chain of title supplied on the statement under 3.73(b) is incomplete.

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

This application is being referred to Technology Center 3679 for appropriate action by the Examiner in the normal course of business.

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

cc: MATTHEW L. KOZIARZ
CARLSON, GASKEY & OLDS
400 W. MAPLE ROAD, STE.350
BIRMINGHAM, MI 48009

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BIRMINGHAM MI 48009

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DEC 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael J. ANDRE	:	**CORRECTED**
Application No. 10/979,481	:	DECISION ON PETITION
Filed: November 2, 2004	:	
Attorney Docket No. 03FHS15 (ITT-601-A)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliant Appeal Brief (37 CFR 41.37(c)(1)), mailed May 14, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 15, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Supplemental Appeal Brief, (2) the petition fee of $1620; and (3) the required 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.

The Power of Attorney request filed August 12, 2009, has been accepted and made of record.

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

This application is being referred to Technology Center 3679 for appropriate action by the Examiner in the normal course of business.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/20/10 **Paper No.**: 20101122

TO SPE OF : ART UNIT 3686

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/979665 Patent No.: 7765106B2

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: _____

/Jerry O'Connor/ SPE, GAU 3686

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

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,765,106 :
Issued: July 27, 2010 :
Application No. 10/979,665 : ON PETITION
Filed: November 2, 2004 :
Attorney Docket No. 101.031US2 :

This is a decision on the PETITION UNDER 37 CFR 1.182 TO CORRECT THE NAME OF THE ASSIGNEE ON THE TERMINAL DISCLAIMER" filed November 19, 2010, requesting correction to the terminal disclaimer filed on March 11, 2010. Patentees state that a terminal disclaimer was originally filed on March 11, 2010. However, there was a clerical error in the originally filed Terminal Disclaimer with respect to the identified Assignee. Patentees request that the attached replacement Terminal Disclaimer be entered into the Official file in lieu of the Terminal Disclaimer filed on March 11, 2010, to correct the clerical error.

The petition is **DISMISSED** to the extent that the Terminal Disclaimer filed March 11, 2010 will not be removed from the record.

Any request for reconsideration must be filed within TWO (2) MONTHS. This 2-month period is governed by 37 CFR 1.181(f) and is not extendable under 37 CFR 1.136. Application No. 10/979,665 was filed on November 2, 2004. Application No. 10/979,665 issued as U.S. Patent No. 7,765,106 on July 27, 2010.

The Terminal Disclaimer filed March 11, 2010 disclaimed, "the terminal part of the statutory term of any patent granted on the above-identified patent application, which would extend beyond the expiration date of the full statutory term, as presently shortened by any terminal disclaimers, of any patent issuing from U.S. Serial No. 11/097,985. The assignee hereby agrees that any patent to be granted on the captioned application shall be enforceable only for and during such period as such patent is commonly owned with any patent issuing from U.S. Serial No. 11/097,985. This agreement shall run with any patent granted on the above-identified application and shall be binding upon the assignee's successors and assigns".

The captioned application as well as U.S. Application Serial No. 11/097,985 are both divisional applications of U.S. Application Serial No. 10/322,348. The assignment for U.S. Serial No. 10/322,348 was recorded on February 19, 2010 at Reel 023962, Frames 0725 - 0731. That assignment assigned the application underlying U.S. Serial

No. 10/322,348, as well as, inter alia, all continuations and divisionals based upon that application. The Terminal Disclaimer filed March 11, 2010 is signed by Bradley A. Forrest on behalf of assignee Jazz Pharmaceuticals, Inc.

The "replacement" Terminal Disclaimer however is signed by Monique M. Perdok Shonka, on behalf of assignee Jazz Pharmaceuticals, Inc.

The two disclaimers, list Jazz Pharmaceuticals, Inc. as the assignee and are both signed by individuals empowered to act on behalf of Jazz Pharmaceuticals, Inc. however, the difference is that in the parent application, 10/322,348, the complete chain of assignments was not properly recorded at the time the March 11, 2010 Terminal Disclaimer was filed. Applicant has now taken the appropriate corrective action by filing assignments from Orphan Medical, Inc. to Orphan Medical, LLC; from Orphan Medical, LLC to JPI Commercial, LLC; and from JPI Commercial, LLC to Jazz Pharmaceuticals, Inc.

The difference in the two disclaimers is the reference to the assignments. A review of Office records confirms that the assignments have all now been recorded.

Nonetheless, the Terminal Disclaimer filed March 11, 2010 was accepted and recorded by the examiner.

Moreover, assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted June 10, 2010 identified the assignee as JPI Commercial, LLC and thus, the patent properly issued to assignee JPI Commercial, LLC , with a Notice that:

> This patent is subject to a terminal disclaimer.

Thus, there is no issue as to what was dedicated to the public. Patentees do not request that the Terminal Disclaimer be removed or nullified. There is no error in the patent requiring correction. As such, this petition does not necessitate consideration of whether issuance of a certificate of correction is warranted.

Rather, patentees request, in effect, that the Terminal Disclaimer filed March 11, 2010 be replaced in the record with the Terminal Disclaimer filed November 19, 2010.

The Terminal Disclaimer filed March 11, 2010 was made of record and considered by the examiner in examination and allowance of this application. Removal of the Terminal Disclaimer filed March 11, 2010 from the application record is inappropriate.

Placement of the Terminal Disclaimer filed November 19, 2010 (along with the petition and petition decision) in the record is sufficient to complete the record. The Terminal

Disclaimer filed November 19, 2010 is accepted and recorded. No further action will be undertaken.

The petition fee of $400 has been charged to Deposit Account No. 19-0743, as authorized.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7E-1 NO 100
ROOSEVELT RD
SEC 2
TAIPEI 100
TAIWAN ROC

In re
Chia-Chang Hsu
Application No. 10/979,670
Filed: November 1, 2004
Patent No. 7,395,155
Issued: July 1, 2008

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 8, 2011.

The fee deficiency submission under 37 CFR 1.28 of $640 for the 3.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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

In re Patent No. 7,899,833	:
Stevens et al.	: DECISION ON REQUEST FOR
Issue Date: March 1, 2011	: RECONSIDERATION OF
Application No. 10/979,742	: PATENT TERM ADJUSTMENT
Filed: November 2, 2004	:
Attorney Docket No. 07470-090001	:
Title: MANAGING RELATED DATA OBJECTS	:

This is a decision on the petition filed on April 29, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred three (603) days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,899,833 on March 1, 2011. The patent issued with a patent term adjustment of 533 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of 472 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 605 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 472 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

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 472 days.

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
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : November 19, 2011

TO SPE OF : ART UNIT 1795
SUBJECT : Request for Certificate of Correction for Appl. No.: 10//979764 Patent No.: 7722989

CofC 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: Reconsideration

Magdalene Talley
Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: Corrections 2 & 3 are NOT supported in the original specification and are considered new matter.

/Patrick Ryan/
1726
SPE
Art Unit

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

In re Patent No. 8,121,712	:	DECISION ON REQUEST
Bowman, et al.	:	FOR
Issue Date: February 21, 2012	:	RECONSIDERATION OF
Application No.10/979,799	:	PATENT TERM ADJUSTMENT
Filed: November 3, 2004	:	and
Atty Docket No. 080200-0193	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 14, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and thirty-one (731) 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 thirty-two (732) days is **GRANTED to the extent indicated herein.**

Given due consideration of the instant petition, and a review of the record, the patent term adjustment is determined to be 732 days (**555** days of "A" delay" + **327** (1,160 - 833) "B" delay + **0** days of "C" delay - **0** days of overlap - **150** days of applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

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

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

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

The matter 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 **seven hundred and thirty-two (732) days**.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,121,712 B2

DATED : Feb. 21, 2012

INVENTOR(S) : Bowman, 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 (405) days

Delete the phrase "by 405 days" and insert – by 732 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/13/2011

TO SPE OF : ART UNIT 1776

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/979876 Patent No.: 7318851 B2

CofC mailroom date: 6/27/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

ok to enter

Comments: _____

/Duane Smith/ SPE AU1776 — 1776

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/980,085	11/02/2004	Stephen E. Paxton	PAXTONDOGBOOT	6720

27119 7590 03/07/2012
ALBERT W. WATKINS
30844 NE 1ST AVENUE
ST. JOSEPH, MN 56374

EXAMINER
XAVIER, VALENTINA

ART UNIT	PAPER NUMBER
3644	

MAIL DATE	DELIVERY MODE
03/07/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Alexandria, VA 22313-1450
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MAR -7 2012

ALBERT W. WATKINS
30844 NE 1ST AVENUE
ST. JOSEPH, MN 56374

APPLICANT:	Stephen E. Paxton et al.		
SERIAL NO.	10/980,085	:	PETITION FOR WITHDRAWAL
FILED:	November 2, 2004	:	OF FINALITY OF ACTION
FOR:	DOG BOOT		

This is in response to the petition filed on February 7, 2011 for withdrawal of the finality of the final office action mailed December 7, 2010.

The petition is **DISMISSED as Moot**.

FACTS

On December 7, 2010, the examiner issued a final Office action.

On February 7, 2011, the instant petition was filed. The petition argues that the examiner improperly raised new grounds of rejection after the filing of an Appeal Brief by the applicant because the new grounds of rejection were not necessitated by either an amendment, or by information presented in an Information Disclosure Statement (IDS).

On February 14, 2011 a Notice of Allowance was mailed and the application subsequently issued as a U.S. patent.

DECISION

In light of the fact that the above-identified application issued as a U.S. patent, the matter concerning the finality of the office action has been rendered moot.

Applicant's petition is **DISMISSED as Moot**.

Any question concerning this decision should be referred to SPE Timothy Collins at 571-272-6886.

Katherine Matecki

Katherine Matecki, Director
Technology Center 3600
(571) 272-5250
Facsimile No.: (571) 273-8300

TDC/snm: 2/28/2012

SM

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OFFICE OF PETITIONS

HOPE BALDAUFF HARTMAN, LLC
MICHAEL J. BALDAUFF, JR.
1720 PEACHTREE STREET, N.W
SUITE 1010
ATLANTA, GA 30309

In re Application of	:	
Lisa S. Jones	:	
Application No. 10/980,086	:	DECISION ON PETITION
Filed: November 3, 2004	:	TO WITHDRAW
Attorney Docket No. 25350-RA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 20, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Steven Koon Hon Wong on behalf of all attorneys of record who are associated with customer No. 53377. All attorneys/agents associated with the Customer Number 53377 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed December 15, 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: LISA S. JONES
1701 CLAYHILL COURT
MARIETTA, GA 30064

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/980,086	11/03/2004	Lisa S. Jones	60080.0001US01

CONFIRMATION NO. 6428

POWER OF ATTORNEY NOTICE

53377
HOPE BALDAUFF HARTMAN, LLC
Michael J. Baldauff, Jr.
1720 PEACHTREE STREET, N.W
SUITE 1010
ATLANTA, GA 30309

OC000000046123186

Date Mailed: 02/22/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/20/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

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FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
AGMON, et al	:	
Application No. 10/980,131	:	DECISION ON PETITION
Filed: November 1, 2004	:	
Attorney Docket No. FSP0042	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 28, 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 March 29, 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: OREN RECHES
SUITE 100,
211 NORTH UNION STREET
ALEXANDRIA VA 22314

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
AUG 04 2011
OFFICE OF PETITIONS

In re Application of :
Grate, et al. :
Application No. 10/980,211 : DECISION ON APPLICATION
Filed: November 2, 2004 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **23239-558002US** :

This is in response to the "Application for Adjustment of Patent Term under 37 CFR 1.705(b)" filed July 14, 2011. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to ninety-six (96) days.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATD HEREIN.**

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 14, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 0 days. On July 14, 2011, applicant submitted the instant petition. Applicant maintains that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and that the patent term adjustment at the time of the mailing of the Notice of Allowance should be 96 days.

Applicant asserts that the Information Disclosure Statement filed August 14, 2009, contained a statement under 37 CFR 1.704(d), and is, therefore, no reduction to the patent term adjustment under 37 CFR 1.704(c)(8) is warranted for the filing thereof.

A review of the application history and of applicant's statement reveals that on December 18, 2008, a non-final Office action was mailed, to which applicant responded on June 18, 2009. On August 14, 2009, applicants filed an Information Disclosure Statement (IDS). A review of the IDS reveals that it contained the following statement:

> ...References B11-B113 and C109-C113 contained in this Supplemental Information Disclosure Statement were first cited in an Extended European Search Report recieved on July 27, 2009, for corresponding European Application No. 05824135.7. As such, References B11-B113 and C109-C113 were not received by Applicants or any individual designated in 1.56(c) more than thirty days prior to the filing of this Supplemental Information Disclosure Statement.

Excerpt taken from "Supplemental Information Disclosure Statement", filed August 14, 2009, p. 1.

37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. However, further review of the Information Disclosure Statement filed August 14, 2009, revealed a statement that can be construed as conveying

the meaning of the statement under 37 CFR 1.704(d).[1] **Accordingly, pursuant to 37 CFR 1.704(c)(8), the period of reduction of 57 days will be removed.**

Applicants also assert that the patent term should be adjusted by an additional 220 days, pursuant to 37 CFR 1.702(a)(1). In summary, applicants assert that the Office action mailed October 30, 2006, was vacated by a Primary Examiner. Further, applicants' note that the October 30, 2006, Office action was replaced by an Office action mailed June 7, 2007. Applicants conclude that the period of adjustment to the patent term under 37 CFR 1.702(a)(1) is properly calculated using the June 7, 2007 Office action, rather than the October 30, 2006, Office action.

Applicants' argument has been considered but is not persuasive. It is concluded that no additional period of adjustment for Office delay pursuant to 37 CFR 1.702(a)(1) is warranted.

It is undisputed that the Office mailed an action under 35 U.S.C. 132 in the form of a restriction/election requirement on October 30, 2006, fourteen months, and three hundred and one days after the application was filed. The subsequent mailing of another Office action under 35 U.S.C. 132 does not alter the date used in calculation of the period of adjustment. Pursuant to 35 U.S.C. 154(b)(1)(A)(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the Office, after fourteen months after the filing of the application. The fact that the Office later withdrew the non-final Office action does not negate the fact that the Office took action within the meaning of 37 CFR 1.702(a)(1) on October 30, 2006. Further, relative to the determination of patent term

---

[1] 37 CFR 1.704(d) provides that:

> (d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

adjustment, the examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless expunged from the record, for purposes of calculating patent term adjustment, the action originally mailed by the examiner on October 30, 2006, was properly used to calculate the adjustment to the patent term, if any, pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(2). See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, no period of adjustment to the patent term pursuant to 37 CFR 1.702(a)(1) will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is 0 days (301 days of "A" delay - 425 days of applicant delay).

The $200.00 fee set forth under 37 CFR 1.18(e) is acknowledged.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10980211 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10980211

Application Filing Date	11/02/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	301
A Delays	301	PTO Manual Adjustment	57
B Delays	0	Applicant Delay (APPL)	482
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
110	08/03/2011		P028	Adjustment of PTA Calculation by PTO	57		0
102	04/14/2011	10/01/2010	MN/=.	Mail Notice of Allowance			87
101	04/13/2011		OAR	Office Action Review			0
100	04/13/2011		OAR	Office Action Review			0
99	04/08/2011		OAR	Office Action Review			0
98	04/08/2011		IREV	Issue Revision Completed			0
97	04/08/2011		DVER	Document Verification			0
96	04/08/2011		N/=.	Notice of Allowance Data Verification Completed			0
95	04/08/2011		CNTA	Allowability Notice			0
93	03/02/2011		FWDX	Date Forwarded to Examiner			0
91	02/24/2011		APBR	Appeal Brief Review Complete			0
92	12/30/2010		AP.B	Appeal Brief Filed			0
90	12/30/2010		XT/G	Request for Extension of Time - Granted			0
87	10/01/2010	07/01/2010	N/AP	Notice of Appeal Filed		92	82
86	10/01/2010		XT/G	Request for Extension of Time - Granted			0
94	06/18/2010		IDSC	Information Disclosure Statement considered			0
84	06/18/2010		M844	Information Disclosure Statement (IDS) Filed			0
83	06/18/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
82	04/01/2010		MCTNF	Mail Non-Final Rejection			0
81	03/29/2010		CTNF	Non-Final Rejection			0
78	03/23/2010		FWDX	Date Forwarded to Examiner			0
75	03/23/2010		ABN9	Disposal for a RCE / CPA / R129			0
72	03/17/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
80	03/15/2010		IDSC	Information Disclosure Statement considered			0
79	03/15/2010	03/15/2010	M844	Information Disclosure Statement (IDS) Filed			76
77	03/15/2010		AMPR	RCE- AF Processed			0
76	03/15/2010	12/15/2009	RCEX	Request for Continued Examination (RCE)		90	65
74	03/15/2010		XT/G	Request for Extension of Time - Granted			0
73	03/15/2010		BRCE	Workflow - Request for RCE - Begin			0
71	03/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
70	03/15/2010		CTAV	Advisory Action (PTOL-303)			0
69	03/02/2010		FWDX	Date Forwarded to Examiner			0
68	02/16/2010		A.NE	Amendment after Final Rejection			0
67	02/16/2010		XT/G	Request for Extension of Time - Granted			0
65	09/15/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
64	08/31/2009		CTFR	Final Rejection			0
66	08/14/2009	06/18/2009	M844	Information Disclosure Statement (IDS) Filed		57	58
63	08/14/2009		IDSC	Information Disclosure Statement considered			0
62	08/14/2009		IDSC	Information Disclosure Statement considered			0
61	08/14/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
60	08/14/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
59	08/09/2009		FWDX	Date Forwarded to Examiner			0
58	06/18/2009	03/18/2009	A...	Response after Non-Final Action		92	56
57	06/18/2009		XT/G	Request for Extension of Time - Granted			0
56	12/18/2008		MCTNF	Mail Non-Final Rejection			0
55	12/17/2008		CTNF	Non-Final Rejection			0
54	11/21/2008		FWDX	Date Forwarded to Examiner			0
52	11/21/2008		FWDX	Date Forwarded to Examiner			0
50	11/21/2008		ABN9	Disposal for a RCE / CPA / R129			0
53	10/22/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
51	10/22/2008	08/23/2008	RCEX	Request for Continued Examination (RCE)		60	42
49	10/22/2008		XT/G	Request for Extension of Time - Granted			0
48	10/22/2008		BRCE	Workflow - Request for RCE - Begin			0
47	09/15/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
46	09/12/2008		CTAV	Advisory Action (PTOL-303)			0

45	09/11/2008		FWDX	Date Forwarded to Examiner			0
44	09/09/2008		A.NE	Amendment after Final Rejection			0
43	09/09/2008		XT/G	Request for Extension of Time - Granted			0
42	05/23/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
41	05/22/2008		CTFR	Final Rejection			0
38	04/23/2008		FWDX	Date Forwarded to Examiner			0
35	04/03/2008		CRFE	CRF Is Good Technically / Entered into Database			0
40	03/17/2008		C614	New or Additional Drawing Filed			0
39	03/17/2008		SEQI	Incoming Biotech Sequence Request			0
37	03/17/2008	12/17/2007	A...	Response after Non-Final Action		91	34
36	03/17/2008		XT/G	Request for Extension of Time - Granted			0
34	09/17/2007		MCTNF	Mail Non-Final Rejection			0
33	09/13/2007		CTNF	Non-Final Rejection			0
30	08/15/2007		FWDX	Date Forwarded to Examiner			0
29	08/07/2007		ELC.	Response to Election / Restriction Filed			0
28	06/07/2007		MW/AC	Mail Notice of Withdrawn Action			0
27	06/07/2007		MCTRS	Mail Restriction Requirement			0
26	06/06/2007		CTRS	Restriction/Election Requirement			0
25	06/06/2007		W/AC	Withdrawing/Vacating Office Action Letter			0
24	04/19/2007		RCAP	Reference capture on IDS			0
23.7	04/19/2007		M844	Information Disclosure Statement (IDS) Filed			0
23	04/19/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
22	02/06/2007		MM327	Mail Miscellaneous Communication to Applicant			0
21	02/05/2007		M327	Miscellaneous Communication to Applicant - No Action Count			0
20	12/22/2006		LET.	Miscellaneous Incoming Letter			0
19	10/30/2006	01/02/2006	MCTRS	Mail Restriction Requirement	301		0.5
18	10/26/2006		CTRS	Restriction/Election Requirement			0
17	12/01/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	12/01/2005		DOCK	Case Docketed to Examiner in GAU			0
15	05/12/2005		A.PE	Preliminary Amendment			0
14	04/12/2005		WROIPE	Application Return from OIPE			0
13	04/12/2005		COMP	Application Is Now Complete			0
12	04/12/2005		ROIPE	Application Return TO OIPE			0
10	04/12/2005		COMP	Application Is Now Complete			0
11	04/11/2005		OIPE	Application Dispatched from OIPE			0
9	03/29/2005		ADDFLFEE	Additional Application Filing Fees			0
8	03/29/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
7	02/24/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
6	02/17/2005		L128	Cleared by L&R (LARS)			0
5	12/01/2004		L198	Referred to Level 2 (LARS) by OIPE CSR			0
4	11/28/2004		SCAN	IFW Scan & PACR Auto Security Review			0
3	11/17/2004		CRFE	CRF Is Good Technically / Entered into Database			0
2	11/02/2004		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	11/02/2004		IEXX	Initial Exam Team nn			0
0.5	11/02/2004		EFILE	Filing date			0

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/980,583	11/03/2004	Brian Robert Elkinson	6003.1005	6607

23280 7590 12/13/2011
Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York, NY 10018

EXAMINER
MORRISON, THOMAS A

ART UNIT	PAPER NUMBER
3653	

MAIL DATE	DELIVERY MODE
12/13/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DEC 13 2011

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 7th Avenue
14th Floor
New York, NY 10018

In re Application of:	:	
Brian Elkinson, et al.	:	**DECISION ON PETITION**
Application No. 10/980,583	:	**UNDER 37 CFR 1.181**
Filed: November 3, 2004	:	
Attorney Docket No. 6003.1005	:	

This is in response to the petition filed on April 13, 2009 under 37 CFR 1.181 requesting that the drawing (i.e. Fig. 4) filed October 6, 2008 be entered. The delay in treating this petition is sincerely regretted.

The petition is **DISMISSED as Moot**.

A review of the record reveals that Applicant filed a new drawing (i.e. Fig 4) on April 7, 2008. The examiner issued a Non-Final Rejection on July 7, 2008 and denied entry of the drawing on the grounds that the drawing included new matter. In response, Applicant submitted a new drawing on October 6, 2008 to overcome the new matter rejection. On November 7, 2008, the examiner issued a Final Rejection and denied entry of the drawing on the grounds that the drawing included new matter. Applicant submitted an after-final amendment on February 2, 2009 pointing out support in specification for the drawing and requesting reconsideration. The examiner subsequently mailed an Advisory Action on February 24, 2009 maintaining that the drawing contained new matter. Applicant thereafter filed a petition on April 13, 2009 requesting that the drawing be entered on the grounds that it does not introduce new matter.

Subsequent to the filing of the petition, the examiner has entered the drawing. In the Non-Final Rejection mailed May 24, 2011, the examiner noted that the drawing was acceptable. Therefore, Applicant's requested relief has been given.

The petition is thus DISMISSED as being moot.

Telephone inquiries should be directed to Stefanos Karmis, Supervisory Patent Examiner, at (571) 272-6744.

Dave Talbott, Director
Patent Technology Center 3600
(571) 272-5150

SK/SM: 12/7/11

SM

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Schultz & Associates, P.C.
5400 LBJ Freeway, Suite 1200
Dallas TX 75240

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Levi et al.	:	
Application No. 10/980615	:	ON PETITION
Filing Date: 11/03/2004	:	
Attorney Docket Number:	:	
35436.7	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 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 January 6, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is June 15, 2011[1].

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 (and the submission required by 37 CFR 1.114); (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 3689 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant filed a reply to the Office action on June 14, 2011; however, the reply failed to place the application in condition for allowance. Accordingly, the date of abandonment is the day after the reply was filed.

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

MAILED
NOV 23 2010
OFFICE OF PETITIONS

In re Application of	:	
John T. Chen, et al.	:	
Application No. 10/980,646	:	DECISION GRANTING PETITION
Filed: November 3, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 308499.01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 22, 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 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/3/2011

TO SPE OF : ART UNIT 2165

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/980778 Patent No.: 7596585 B2

CofC mailroom date: 12/7/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

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: _____

/Neveen Abel-Jalil/
SPE

AU 2165
Art Unit

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FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NW 77TH STREET, SUITE 111
BOCA RATON FL 33487

MAILED

JAN 31 2012

OFFICE OF PETITIONS

In re Application of
James C. Mahlbacher :
Application No. 10/980,798 :
Filed: November 4, 2004 :
Attorney Docket Number: **SVL920040028US 1** :

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed January 9, 2012, to change the name of the inventor due to error on the part of the applicant.

The petition is **GRANTED**.

Petitioner has requested that the inventor listed on the application as James M. Mahlbacher be correctly listed as James C. Mahlbacher. The petition indicates that while the name was typed incorrectly, it was signed correctly and that it was without deceptive intent.

In view of the instant request, the following inventor name data will be changed.

Inventor: James C. Mahlbacher

The fee for a petition under 37 CFR 1.182 is set at $400 not $130 as has been indicated in the petition. Per the authorization contained in the petition, deposit account no. 09-0461 has been charged in the amount of $400 for the instant petition.

A Corrected Filing Receipt, which reflects the correct name of the inventor accompanies this decision on petition.

This matter is being referred to the Publishing Division to await remittance of the Issue Fee Transmittal and for processing this application into a Patent.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/980,798	11/04/2004	3621	1802	SVL920040028US1	42	10

CONFIRMATION NO. 5155

CORRECTED FILING RECEIPT

78007
FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NW 77TH STREET, SUITE 111
BOCA RATON, FL 33487

OC000000052256745

Date Mailed: 01/30/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

James C. Mahlbacher, Lake Worth, FL;

Assignment For Published Patent Application

INTERNATIONAL BUSINESS MACHINES CORPORATION

Power of Attorney: The patent practitioners associated with Customer Number 78007

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 12/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/980,798**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

UNIVERSAL DRM SUPPORT FOR DEVICES

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of :
Eric Ojard :
Application No. 10/981,173 : ON APPLICATION FOR
Filed: 11/04/2004 : PATENT TERM ADJUSTMENT
Atty Docket No. :
15454US02 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE 37 CFR § 1.705," filed on August 23, 2010. Applicant asserts that the correct patent term adjustment is 1406 days rather than 578 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicant asserts entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,584,380	:
Chen et al.	: DECISION ON REQUEST FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 10/981,178	: PATENT TERM ADJUSTMENT
Filed: November 4, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 16023US02	: TO ISSUE CERTIFICATE OF
Title: METHOD AND SYSTEM FOR	: CORRECTION
DEBUGGING FLOW CONTROL BASED	:
DESIGNS	:

This is a decision on the petition filed on May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted to eight hundred seventy-six (876) days. The petition was filed within one month of a decision by the Office mailed on April 21, 2010. The April 21, 2010 petition granted 839 days of patent term adjustment

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 622 (January 5, 2006 to September 18, 2007) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 379 days (November 5, 2007 to November 17, 2008 the day before the filing of the request for continued examination. The calculation is based upon the day after the date that is three years after the date the application was filed. See 37 CFR 1.703(b).

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 July 18, 2008. The reduction of 123 days commenced July 18, 2008; the date that the Notice of Appeal was filed, and ended November 17, 2008, the day before the RCE was filed. See, 37 CFR 1.703(b)(4).

On petition, patentees dispute the 42 day reduction taken pursuant to 37 CFR 1.704 (c)(10). Patentees contend that the Comments on Statement of Reasons for Allowance did not warrant the 42 day reduction based upon the June 26, 2001 Official Gazette. Instead patentees contend that no reduction is required.

Patentees' request for reconsideration of the 42-day reduction is untimely. The first request for reconsideration of the patent term adjustment was submitted on March 1, 2010, six months after the issuance of the patent. The Request for Recalculation of Patent Term Adjustment in View of Wyeth was pursuant to delays under 35 U.S.C. 154(b)(2)(A). Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(d) in this instance 1.704(c)(10) are untimely if not raised within two months of the date the patent issued.

In view thereof, the patent is entitled to an overall adjustment of 839 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred thirty-nine **(839)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,584,380 B2

DATED : September 1, 2009 **DRAFT**

INVENTOR(S) : Chen 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 583 days

Delete the phrase "by 583 days" and insert – by 839 days--

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7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

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FEB 18 2011

OFFICE OF PETITIONS

In re Application	:	DECISION ON PETITION
Rob Walker	:	TO WITHDRAW
Application No. 10/981,365	:	FROM RECORD
Filed: November 3, 2004	:	
Attorney Docket No. PB10123.00	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2005.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Ingrassia, Fisher & Lorenz, P.C. was revoked by the assignee of record. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: SHUMAKER & SIEFFERT, P.A.
1625 RADIO DRIVE
SUITE 300
ST. PAUL MN 55125

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SEP 14 2010

OFFICE OF PETITIONS

In re Patent No: 7,782,803	:	
Issued: August 24, 2010	:	
Application No. 10/981,402	:	ON PETITION
Filed: November 4, 2004	:	
Attorney Docket No. 0321.68585	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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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.
10/981,483	11/05/2004	Masakazu Kojima	1614.1434	7712

21171 7590 07/22/2011
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
VU, MICHAEL T

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
07/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Application No.: 10981483	:	
Filed: 11/05/2004	:	**DECISION ON PETITION**
Patent Number: 7,924,769	:	
Issue Date: 04/12/11	:	
Attorney Docket No. **1614.1434**	:	

This is a decision on the Petition filed under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO) on July 14, 2011. Petitioner seeks relief from filing a Petition for Duplicate Letters Patent in this application due to the non-receipt of a large number of Patent Grants in the April 12, 2011 issue.

The Petition is **GRANTED**.

Petitioner submitted a statement that the Patent Grant was not received at the correspondence address of record; that a search of records did not indicate receipt; and that the docketing system is sufficiently reliable. Petitioner filed a copy of the docketing records showing receipts dates and application history as evidence.

Therefore, the Office of Data Management will provide one additional Original Letters Patent for this application.

Telephone inquiries relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/
Manager
Office of Data Management
Patent Publication Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON DC 20007

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DEC 07 2011

OFFICE OF PETITIONS

In re Application of
Beyda, et al.
Application No. 10/981,733
Filed: November 5, 2004
Atty. Dkt. No.: 54820-00608

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 15, 2011 for failure to timely reply to the final Office action mailed April 14, 2011. The Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed October 31, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The above-identified application has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 3682 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Vicente Sabater, et al.	:	
Application No. 10/981,759	:	DECISION ON PETITION
Filed: November 5, 2004	:	
Attorney Docket No. 5724.110.00	:	

This is a decision on the petition, filed July 7, 2011 and resubmitted on August 10, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The Notice of abandonment mailed June 15, 2011 held this application to have gone abandoned for failure to timely respond to the Non-Final Office action of May 14, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 14, 2010 or, on or before November 14, 2010, with a three (3)-month extension of time under 37 CFR 1.136.

Petitioner states that a timely reply was submitted electronically with USPTO on November 12, 2010, which included the following papers: a request for three (3) month extension of time, a Notice of Appeal, and a Pre-Appeal Brief Request for Review. As stated in the petition, the panel decision on the Pre-Appeal Brief Request for Review, mailed December 16, 2011, set the time period for response by the applicant to extend until January 16, 2011, with extensions of time being available under 37 CFR 1.136.

A review of the written record indicates that the petitioner filed a Request for Continued Examination (RCE) along with the submission required under 37 CFR 1.114 and fees for a five (5) month extension of time on June 15, 2011. As this was a timely reply, the application is not abandoned in fact.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 14, 2010 is hereby **withdrawn**.

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 inquires regarding 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 in the normal course of business.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: VEDDER PRICE PC
1401 I STREET, NW
WASHINGTON, DC 20005

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APR 25 2011

OFFICE OF PETITIONS

ZILKA-KOTAB, PC- IBM
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of	:	
Lin et al.	:	DECISION ON
Application No. 10/981,926	:	PETITION PURSUANT TO
Filed: November 5, 2004	:	37 C.F.R. § 1.182
Attorney Docket No. IBM1P096A/	:	
SJO920010112US2	:	
Title: DUAL MAGNETIC TUNNEL	:	
JUNCTION SENSOR WITH A LONGITUDINAL	:	
BIAS STACK	:	

This is in response to the petition filed on January 7, 2011 pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer.

This petition is **GRANTED**.

On April 17, 2006, Petitioner submitted a terminal disclaimer to overcome a non-statutory double patenting rejection over pending U.S. application number 10/692,968[1] in a final Office action mailed February 16, 2006.

With this petition, Petitioner has submitted the petition fee and a request that the terminal disclaimer that is associated with U.S. application number 10/692,968 be withdrawn.

The Examiner has reviewed Petitioner's request, and has determined that the previously filed terminal disclaimer should be withdrawn. A Miscellaneous Office Communication has been included with this decision.

[1] It is noted that Application No. 10/692,968 matured into U.S. Patent No. 7,413,636 on August 19, 2008.

The previously filed terminal disclaimer is hereby **WITHDRAWN.**

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 present application can receive further processing in due course. The Examiner will note that both a Request for Continued Examination (RCE) and the associated fee have been submitted concurrently with this petition.

Telephone inquiries *regarding this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Miscellaneous Office Communication

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10981926	11/5/04	LIN ET AL.	
IBM1P096A/SJO920010112US2			

ZILKA-KOTAB, PC- IBM
P.O. BOX 721120
SAN JOSE, CA 95172-1120

EXAMINER
Rodney G.. McDonald

ART UNIT	PAPER
1724	20110413

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The terminal disclaimer filed April 17, 2006 has been withdrawn pursuant to the petition filed January 7, 2011.

/Rodney G. McDonald/
Primary Examiner, Art Unit 1724

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Infineum USA L.P.
1900 E. Linden Ave.
P.O. Box 710
Linden NJ 07036-0710

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of

Ritchie, et al.

Application No. 10/981,954

Filed: November 5, 2004

Attorney Docket No. **2002L011**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed June 14, 2010. The final Office action set a shortened statutory period for reply of three months from its mailing date. A proper response was received, and the application became abandoned on December 15, 2010. A Notice of Abandonment was mailed February 3, 2011.

The Request for Continued Examination filed February 8, 2011, is noted.

The application file is being forwarded to Technology Center 1700, GAU 1771 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER LAW GROUP LLP
P.O. BOX 1687
CUPERTINO CA 95015-1687

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OCT 07 2011
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In re Application:	:	
Takashi Ishidoshiro	:	
Application No. 10/982,031	:	ON PETITION
Filed: November 5, 2004	:	
Attorney Docket No. MES1P088	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 12, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110119

DATE : May 11, 2010

TO SPE OF : ART UNIT 3782

SUBJECT : Request for Certificate of Correction on Patent No.: 7699216

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/NATHAN J NEWHOUSE/
Supervisory Patent Examiner.Art Unit 3782

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 23, 2011

TO SPE OF : ART UNIT 3772

SUBJECT : Request for Certificate of Correction for Appl. No. 10/982346 patent No.:7884258 B2
C of C mailroom date:--03-14-11--------

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

3/28/11

SPE

3772
Art Unit

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.
10/982,355	11/04/2004	Eric B. Stenzel	03-304 (4010/336)	8512

27774 7590 02/22/2011
MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD, NJ 07090

EXAMINER
BERRIOS, JENNIFER A

ART UNIT	PAPER NUMBER
1613	

MAIL DATE	DELIVERY MODE
02/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FEB 2 2 2011

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD NJ 07090

In re Application of:	:
Eric B. Stenzel.	:
Serial No.: 10/982,355	: PETITION DECISION
Filed: November 4, 2004	:
Attorney Docket No.: **03-304 (4010/336)**	:

This is in response to the petition filed November 10, 2010 under 37 CFR § 1.181, requesting that the finality of the Office action of September 10, 2010 be withdrawn. Also, the delay in deciding this petition is regretted but it has only just been brought to the attention of the Deciding Official.

BACKGROUND

The examiner mailed a final Office action on June 2, 2009.

On December 8, 2009, applicant filed a Request for Continued Examination (RCE) along with the appropriate fees. In this RCE, applicant fulfilled the requirements of 37 C.F.R. § 1.114 (submission) and indicated that said submission, containing claim amendments was to be considered for examination.

On September 10, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply.

In response thereto, applicant filed this petition on November 10, 2010 under 37 CFR § 1.181, requesting that the finality of the Office action of September 10, 2010 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on September 24, 2009, "The Applicant respectfully submits that the final rejection is premature under MPEP § 706.07(c). In this regard, for a proper first action final rejection following an RCE, all claims of the application *must be drawn to the same invention* claimed in the application prior to the entry of the submission under 37 CFR 1.114 (i.e., Applicant's Amendment Accompanying an RCE). Applicant, however, *amended* the claims such that the claims in the application after the submission under 37 CFR 1.114 were drawn to a *different invention* than that claimed prior to the entry of the submission under 37 CFR 1.114."

Applicant further argues, "... that the scope of claim 1 has been narrowed such that claim 1 is drawn to a *different invention* than that claimed prior to the entry of the submission under 37 CFR 1.114, and the Examiner's final rejection is therefore premature under MPEP § 706.07(c)."

Applicant's points are well-taken and found persuasive. For example, it is noted that claim 1 was amended to require that the first coating layer and the second coating layer be contiguous on the same surface of the medical device- a limitation not previously considered by the examiner. Thus, it is decided that the final Office action mailed on September 10, 2010 is premature and in error because the claims are not drawn to the same invention and a new ground of rejection has been applied. The finality of said rejection is hereby WITHDRAWN in favor of applicant.

DECISION

The petition is **GRANTED.**

The Office action mailed September 10, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action.

Applicant is given ONE MONTH from the mailing date of this Decision to submit any amendment, remarks, etc. to rebut the examiner's now non-final action of September 10, 2010.

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.

Remy Yucel
Director, Technology Center 1600

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Paper No.

DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

MAILED
OCT 26 2010
OFFICE OF PETITIONS

In re Patent No. 7,709,610	:	
Williams et al.	:	DECISION ON
Issue Date: May 4, 2010	:	REQUEST FOR
Application No. 10/982,357	:	RECONSIDERATION OF
Filed: November 5, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 381828-115T1	:	
(101900)	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(d)," filed July 2, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred and seventy-five (675) days to either one thousand, one hundred and sixty-six (1166) or nine hundred and thirty-five (935) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On May 4, 2010, the above-identified application matured into US Patent No. 7,709,610 with a patent term adjustment of 675 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentee requests recalculation of the patent term adjustment to include a 911-day period of adjustment pursuant to 37 C.F.R.

§ 1.703(b).[1] Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 911 days, the period of adjustment due to other examination delays of 510 days, and a reduction of 243 days for applicant delay, with 12 days overlapping between the examination delays and the B-delay.

The period of adjustment of 510 days of examination delay is not in dispute.

The period of reduction of 243 days of Applicant delay is not in dispute.

Two periods of delay are in dispute:

- whether the filing of a Request for Continued Examination (RCE) on December 18, 2008 cuts off the period of B-delay, and;
- whether the 12-day period of examination delay pursuant to 37 C.F.R. § 1.703(a)(6) overlaps with the B-delay (this patent issued four months and 12 days after the issue fee was received).

The Office holds that the filing of an RCE cuts off the period of B-delay.

Pursuant to 37 C.F.R. 1.702(b)(1):

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

Pursuant to 37 C.F.R. 1.703(b)(1):

> 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

[1] This patent issued three years and 911 days after the application was filed.

> 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;

Hence, **when calculating the number of days 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, any days that occurred subsequent to the filing of the RCE are not considered**. In this instance, the application was filed on November 5, 2004, and on December 18, 2008, a RCE was filed. The period from the filing date of the RCE to the issue date of the patent is not included in the "B" delay period: the over three year period begins on November 6, 2007 and ends on December 17, 2008, the day before the first RCE was filed, which amounts to 408 days. See U.S.C. 154(b)(1)(B)(i).

Since the 12-day period of examination delay pursuant to 37 C.F.R. § 1.703(a)(6) occurred subsequent to the filing of the first RCE, none of the 12 days overlaps with the B-delay.

Petitioner's arguments with respect to the filing of a Request for Continued Examination (RCE) and the effect on Patent Term Adjustment are noted. However, the arguments miss the point. Allowing an applicant to file an unlimited number of RCE's prior to the third year anniversary without any effect on the "B" period of the Patent Term is not in accordance with the plain language of the statute or the intent of Congress. See "Changes to Implement Patent Term Adjustment Under Twenty Year Patent Term, Final Rule," Vol. 65, No. 181 Fed. Reg. 56375-56376:"

> Comment 8: One comment objected to the exclusion from the three-year period in § 1.703(b)(1) of the period of time in which a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is processed. The comment argues that filing a request for continued examination should not preclude an applicant from obtaining a term adjustment for printing delays of a patent.
>
> Response: 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination

> requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114. Nevertheless, if a request for continued examination is filed in an application, the applicant may still accrue patent term adjustment under 35 U.S.C. 154(b)(1)(A) or (C). Accordingly, if two years after the filing date of an application, a request for continued examination is filed, and three years after the filing date of the application, the issue fee is paid (and all outstanding requirements are satisfied), but the patent does not issue as a patent until four years after the application's filing date, applicant may be entitled to an eight-month term adjustment because the application did not issue within four months of payment of the issue fee. Since the request for continued examination was filed within three years of the filing date of the application, applicant cannot accrue any term adjustment under the ''three-year'' statutory basis (35 U.S.C. 154(b)(1)(B)), but may accrue patent term adjustment under the other bases (e.g., 35 U.S.C. 154(b)(1)(A)(iv)).

As set forth in the legislative history quoted by Petitioner on page 5 of the Application for Patent Term Adjustment filed July 2, 2010;

> Any periods of time-- (1) consumed in the continued examination of the application under §132(b) of the Patent Act as added by section 4403 of this Act;...shall not be considered delay by the USPTO and shall not be counted for purposes of determining whether the patent issued within three years from the actual filing date. 145 Cong. Rec. H11802-03 (Nov. 9, 1999)

The legislative history is clear that the period of time following the submission of an RCE is not delay caused by the USPTO and is not counted for determining if the patent issues within three years. Hence, the filing of an RCE stops the accrual of any time for PTA for the over-three years period.

Accordingly, at issuance, the Office properly entered 675 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent. It follows that Patentee is entitled to a patent term adjustment of 675 days:

	510 days of examination delay
+	408 days attributable to the Office taking in excess of 3 years to issue the patent
–	0 days of overlap
–	243 days of Applicant delay.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Finnegan, Henderson, Farabow, Garrett & Dunner
901 New York Avenue
Washington DC 20001-4413

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Williams et al.	:	
Patent No. 7,706,610	:	ON PETITION
Application No. 10/982,357	:	
Filed: August 29, 2009	:	

This is a decision on the "PETITION TO THE DIRECTOR PURSUANT TO 37 CFR 1.181" requesting that the Office grant petitioner a Patent Term Adjustment calculation (hereinafter, PTA) of One thousand One Hundred and Sixty-Six (1,166) days.

The request for reconsideration of patent term adjustment and the request for supervisory review are **DENIED**.

This decision may be viewed as a final agency decision. See MPEP § 1002.02(b). This decision shall NOT provide petitioner any additional remedy under the Administrative Procedure Act that is separate and distinct from the right provided in 35 U.S.C. § 154(b)(4)(A).

BACKGROUND

1. The instant application for patent was filed was filed on November 5, 2004.

2. On December 18, 2008, a Request for Continued Examination (RCE) was filed.

3. On December 14, 2009, the Office mailed a notice of allowance.

4. On May 4, 2010, the application issued as U.S. Patent No. 7,706,610. The Office determined the Patent Term Adjustment (hereinafter referred to as "PTA") to be 675 days.

5. On July 2, 1010, patentee timely filed an "Application for PTA including a Request for Reconsideration under 37 CFR 1.705(d)." Patentee sought a PTA determination of 1,166 days or, in the alternative, a PTA determination of 935 days.

6. On October 26, 2010, the Office dismissed patentee's Application for PTA and Request for Reconsideration filed July 2, 2010.

7. On October 29, 2010, the patentee commenced a civil action in the United States District Court for the District of Columbia under 35 U.S.C. § 154 and 5 U.S.C. §§ 701-706 of the Administrative Procedure Act seeking a patent term adjustment in the amount of 1,166 days.

8. On December 23, 2010, the patentee filed "Petition to the Director Pursuant to 37 CFR § 1.181". Patentee requested that the Office reconsider the determination not to grant patentee's request for Patent Term Adjustment of 1,166 days.

9. On March 30, 2011, the District Court remanded this matter to the Office for a decision on patentee's petition.

STATUTE AND REGULATION

35 U.S.C. § 154 provides, in part:

> b) ADJUSTMENT OF PATENT TERM.
>
> ...
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY.- Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including-
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

37 CFR 1.702 provides, in part:

> ...
>
> (b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

37 CFR § 1.703 provides, in part:

...

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;
(2)
(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and
(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;
(3)
(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;
(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed;
(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and
(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,
(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35

U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

ARGUMENTS

Patentee asserts that the Office erred in granting 408 days related to 35 U.S.C. § 154(b)(1)(B) (hereinafter, "B delay"); 37 CFR 1.702(b) and 37 CFR 1.703(b)(1)-(4). Patentees assert that the proper amount of "B" delay would be 911 days, or in the alternative, 549 days.

Patentee asserts that the Office erred in not finding the overlap amount of days in the application pursuant to 35 U.S.C. § 154(b)(2)(A) and 37 CFR 1.703(f) as 12 days. Accordingly, patentee asserts that the proper amount of PTA is 1,166 days (510 + 911-12-243= 1,166). Alternatively, patentee asserts that the amount of PTA is 804 days (510 +549--243= 804).

Patentee specifically argues that the Office has misconstrued the statutory language of 35 U.S.C. § 154(b)(1)(B) in the promulgation of 37 CFR 1.703(b). Patentee asserts that if an RCE is not filed within three years of the actual filing date of an application, then the "B delay" would be the total number of days after the date that is three years from the filing date until the patent is issued, or in this instance 911 days. Accordingly, patentee asserts that if applicant waits until after three years to file an RCE, then the RCE would have no impact on the amount of "B delay" earned. Patentee considers this theory to be the "trigger and remedy" theory. Patentee contends that the only limitations on PTA are found in 35 U.S.C. § 154(b)(2)(A)-(C) and include periods of overlap, terminal disclaimers, and reductions for failing to engage in reasonable efforts to conclude prosecution of the application. Patentees assert that 35 U.S.C. § 154(b)(1)(B) only relates to the granting of additional patent term and not any limitation of such term.

Moreover, patentee asserts that the Office determined that the applicant delays referred to in 35 U.S.C. § 154(b)(1)(B)(iii) are rightfully "circumstances constituting a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application" and addressed them in 37 CFR 1.704, but the Office did not make the determination that the filing of an RCE, referred to in 35 U.S.C. § 154(b)(1)(B)(i), constitutes failure to engage in reasonable efforts to conclude prosecution of the application under such regulations.

Finally, patentee contends that even if the Office is correct in its interpretation that an RCE reduces the amount of "B delay" regardless of the date it is filed, the period from the mailing of a notice of allowance following an RCE to the date of issuance of the paten should not be "time consumed by continued examination." Accordingly, under this position, patentee asserts that the amount of "B delay" should be 549 days.

OPINION

The two issues are:

(1) Whether the Office calculated the proper amount of "B delay" as required by 35 U.S.C. § 154(b)(1)(B); and

(2) Whether the 12-day period of examination delay pursuant to 35 U.S.C. § 154(b)(1)((A)(iv) overlaps with delay under 35 U.S.C. § 154(b)(1)(B) (this patent issued four months and 12 days after the issue fee and other requirements being satisfied).

The first issue as to whether the Office granted the proper amount of "B delay" is one of statutory construction. The Office notes that the phrase "the term of the patent shall be extended 1 day for each day after **that three year period** until the patent is issued" is essential in determining the statutory construction. The phrase "that three year period" refers to not only the period from the three year anniversary date to the date of issuance but also makes clear that such period should not include any of the periods enumerated in 35 U.S.C. § 154(b)(1)(B)(i)-(iii) when determining amount of "B delay." 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)).

Hence, when calculating the number of days that issuance of the patent was delayed due to the failure of the Office to issue a patent within three years of the actual filing date of an application in the United States, any days that occurred subsequent to the filing of the RCE are considered time consumed by continued examination of the application requested by the applicant under § 132(b) and are not included within the "B delay" tally. The instant application was filed on November 5, 2004, an RCE filed on December 18, 2008, and the patent issued on May 4, 2010. The "B delay" period begins on November 6, 2007, and ends on December 17, 2008, the day before the first RCE was filed, which amounts to 408 days. The period from December 18, 2008, through May 4, 2010, would not be included in the amount of "B delay."

Patentee's alternative argument that the period of time after the issuance of a notice of allowance after the filing of the RCE is not "any time consumed by continued examination requested by the applicant under section 132(b)" is unpersuasive. This limitation is not supported by the statutory language. See 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 statutory language, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," means 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), 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."

In addition, 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, 139, 88 U.S.P.Q. 2d. 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued 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.

Moreover, "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.

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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.

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 to[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. § 154(b)(1)(B) guarantees a total application pendency of no more than three years and provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. § 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

Accordingly, assuming that **W** is defined as the delay applicant earns under 35 U.S.C. § 154(b)(1)(B), **X** is the period of continued examination as defined by the Office from day of filing of RCE thru issue date and **Y** is the number of days from the day after the three year anniversary date of the actual filing of the application in the US to the date of the issuance of the patent, the following scenarios would occur:

1) If **W** occurred and **x= 0**, then **W = Y-0=Y**; and

2) If **W** occurred and **x > 0**, then **W = Y-X**.

Thus, if an RCE is filed within three years, applicant could not receive any PTA because **X** would necessarily be greater than **Y**. If, the RCE occurs after the three year anniversary date, then **W** would equal the number of days from the day after the three year anniversary date of the actual filing to the day before the filing of the RCE **(Y-X)**.

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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.

The Office has expressly addressed situation (1) in the final rule. See "Changes to Implement Patent Term Adjustment Under Twenty Year Patent Term, Final Rule," 65 FR 56366 (Sep. 18, 2000):

> Comment 8: One comment objected to the exclusion from the three-year period in § 1.703(b)(1) of the period of time in which a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is processed. The comment argues that filing a request for continued examination should not preclude an applicant from obtaining a term adjustment for printing delays of a patent.
>
> Response: 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114. Nevertheless, if a request for continued examination is filed in an application, the applicant may still accrue patent term adjustment under 35 U.S.C. 154(b)(1)(A) or (C). Accordingly, if two years after the filing date of an application, a request for continued examination is filed, and three years after the filing date of the application, the issue fee is paid (and all outstanding requirements are satisfied), but the patent does not issue as a patent until four years after the application's filing date, applicant may be entitled to an eight-month term adjustment because the application did not issue within four months of payment of the issue fee. Since the request for continued examination was filed within three years of the filing date of the application, applicant cannot accrue any term adjustment under the ''three-year'' statutory basis (35 U.S.C. 154(b)(1)(B)), but may accrue patent term adjustment under the other bases (*e.g.*, 35 U.S.C. 154(b)(1)(A)(iv)).

Id. at 56375-56376.

Since the 12-day period of examination delay pursuant to 35 U.S.C. § 154(b)(1)(A)(iv) occurred during a period in which no "B delay" was earned, no overlapping periods occurred between 35 U.S.C. § 154(b)(1)(A)(iv) and 35 U.S.C. § 154(b)(1)(B).

Finally, the Office notes the exhibits provided by the patentee, including a declaration from Judge Steiner (ret.), Office metrics on Board of Patent Appeals and Interferences pendency, and changes to the examiner count system. This decision need not discuss the merits of such exhibits as the statute expressly excludes any time consumed by continued examination from the amount of "B delay." See 35 U.S.C. § 154(b)(1)(B)(i).

CONCLUSION

The PTA calculation of 675 days is maintained. The Office concludes that its determination is accurate.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Kery Fries, Senior Legal Advisor, at (571)272-7757.

Brian E. Hanlon

Brian E. Hanlon
Director, Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

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MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Oliner et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,658,924	:	PATENT TERM ADJUSTMENT
Issue Date: 02/09/2010	:	and
Application No. 10/982440	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 11/04/2004	:	CERTIFICATE OF CORRECTION
Attorney Docket Number: 04-881-A	:	

This is a decision on the petition filed on filed May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-two (642) days. This requested correction includes an assertion that the Office erred in assessing delays of 120 days, 109 days, and five (5) 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-two (642) days is **GRANTED to the extent indicated herein**.

Applicants aver that the Office errantly assessed a reduction of 120 days in connection with the filing of a "Letter Regarding Payment of Fees," filed August 1, 2009 pursuant to 37 CFR 1.704(c)(10).

Applicants also suggest that this Office incorrectly calculated a reduction of 109 days in connection with the filing of the Substitute Sequence Listing, using the date of October 10, 2005, instead of the actual filing date of the Substitute Sequence Listing, October 13, 2005. Applicants provide that the correct reduction should be 112 days.

Finally, Applicants suggest that the Office errantly neglected to assess a reduction of five (5) days in connection with the filing of the issue fee payment on January 8, 2009, three months and five days after the mailing of the Notice of Allowance and Issue Fee Due, on October 3, 2008.

Regarding the reduction of 120 days in connection with the filing of a "Letter Regarding Payment of Fees," filed August 1, 2009 pursuant to 37 CFR 1.704(c)(10), a review of the application history confirms that the Letter informing this Office of the previous submission of the issue fee was not filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. The reduction of 120 days is in error and has been removed.

Regarding the reduction of 109 days in connection with the filing of the Substitute Sequence Listing on October 13, 2005, a review of the application history reveals that this Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice"), on March 23, 2005. Applicants filed a reply on July 25, 2005. The reduction of 32 days began on the day after the date that is three months after the date of mailing of the Notice, June 24, 2005, and ended on the date the reply was filed, July 25, 2005[1].

Regarding the reduction of five (5) days in connection with the filing of the issue fee payment on January 8, 2009, a review of the application history confirms that this Office errantly failed to assess a reduction of five (5) days in accordance with 37 CFR 1.704(b) in connection with the filing of the issue fee payment on January 8, 2009. The reduction commenced on the day after the date that is three months after the date of mailing of the Notice of Allowance and issue Fee Due, January 4, 2009, and ending on the date the reply was filed, January 8, 2009. A reduction of five (5) days is properly attributed to Applicants pursuant to 37 CFR 1.704(b).

A further review of the application history reveals that this Office errantly neglected to assess reductions of two (2) days and one (1) day in connection with the filing of Foreign References. A review of the application history reveals that Applicants filed an Information Disclosure Statement ("IDS"), on December 26, 2007. Thereafter, Applicants filed Foreign References on December 27, 2007 and December 28, 2007. Pursuant to 37 CFR 1.704(c)(8), a reduction of two (2) days, beginning on the day after the date the initial reply was filed, December 27, 2007, and ending on the date that the supplemental reply or other such paper was filed, December 28, 2007, is appropriate.

A review of the application history reveals further that Applicants filed an IDS on July 27, 2008. Thereafter, Applicants filed a paper supplementing the IDS on July 28, 2008. Pursuant to 37 CFR 1.704(c)(8), a reduction of one (1) day, beginning on the day after the date the initial reply was filed, July 28, 2008, and ending on the date that the supplemental reply or other such paper was filed, July 28, 2008, is appropriate.

Finally, a review of the application history reveals that the Office errantly neglected to assess a reduction of 61 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of a Request for Continued Examination ("RCE"), after payment of the issue fee on January 8, 2008. The reduction of 61 days is appropriate, beginning on the date the RCE was filed, March 16, 2009,

[1] The Office mailed a second Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures on August 8, 2005; wherein the Office set a two (2) month period for reply. Applicants filed a timely reply to the second Notice on October 13, 2005.

and ending on the mailing date of the Notice of Allowance in response to the RCE, May 15, 2009.

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 four **(604)** days (Office adjustments of 883 days (440 days + 497 days – 54 days overlap) reduced by Applicant delays of 279 days (32 days + 30 days + 2 days + 48 days + 2 days + 91 days + 5 days + 1 day + 5 days + 61 days + 2 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 : 7,658,924 B2

DATED : **February 9, 2010**

INVENTOR(S) : Oliner 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 145 days.

Delete the phrase "by 145 days" and insert – by 604 days--

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MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	CORECTED[1]
Oliner et al.	:	DECISION ON REQUEST
Patent Number: 7,658,924	:	FOR RECONSIDERATION OF
Issue Date: 02/09/2010	:	PATENT TERM ADJUSTMENT
Application No. 10/982440	:	and
Filing or 371(c) Date: 11/04/2004	:	NOTICE OF INTENT TO ISSUE
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This is a corrected decision on the petition filed on filed May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-two (642) days. This requested correction includes an assertion that the Office erred in assessing delays of 120 days, 109 days, and five (5) days.

The present decision supersedes the Decision mailed on August 4, 2010.

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-two (642) days is **GRANTED to the extent indicated herein.**

Applicants aver that the Office errantly assessed a reduction of 120 days in connection with the filing of a "Letter Regarding Payment of Fees," filed August 1, 2009 pursuant to 37 CFR 1.704(c)(10).

Applicants also suggest that this Office incorrectly calculated a reduction of 109 days in connection with the filing of the Substitute Sequence Listing, using the date of October 10, 2005, instead of the actual filing date of the Substitute Sequence Listing, October 13, 2005. Applicants provide that the correct reduction should be 112 days.

[1] This Decision corrects the Patent Term Adjustment noted in the Decision mailed August 4, 2010 from 604 days to 658 days.

Finally, Applicants suggest that the Office errantly neglected to assess a reduction of five (5) days in connection with the filing of the issue fee payment on January 8, 2009, three months and five days after the mailing of the Notice of Allowance and Issue Fee Due, on October 3, 2008.

Regarding the reduction of 120 days in connection with the filing of a "Letter Regarding Payment of Fees," filed August 1, 2009 pursuant to 37 CFR 1.704(c)(10), a review of the application history confirms that the Letter informing this Office of the previous submission of the issue fee was not filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. The reduction of 120 days is in error and has been removed.

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A further review of the application history reveals that this Office errantly neglected to assess reductions of two (2) days and one (1) day in connection with the filing of Foreign References. A review of the application history reveals that Applicants filed an Information Disclosure Statement ("IDS"), on December 26, 2007. Thereafter, Applicants filed Foreign References on December 27, 2007 and December 28, 2007. Pursuant to 37 CFR 1.704(c)(8), a reduction of two (2) days, beginning on the day after the date the initial reply was filed, December 27, 2007, and ending on the date that the supplemental reply or other such paper was filed, December 28, 2007, is appropriate.

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[2] The Office mailed a second Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures on August 8, 2005; wherein the Office set a two (2) month period for reply. Applicants filed a timely reply to the second Notice on October 13, 2005.

Finally, a review of the application history reveals that the Office errantly neglected to assess a reduction of 61 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of a Request for Continued Examination ("RCE"), after payment of the issue fee on January 8, 2008. The reduction of 61 days is appropriate, beginning on the date the RCE was filed, March 16, 2009, and ending on the mailing date of the Notice of Allowance in response to the RCE, May 15, 2009.

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.

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/DLW/

Derek L. Woods
Attorney
Office of Petitions

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DATED : **February 9, 2010**

INVENTOR(S) : Oliner et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

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Delete the phrase "by 145 days" and insert – by 658 days--

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CHICAGO IL 60606-6357

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Patent No. 7,223,943 :
Issue Date: May 29, 2007 :
Application No. 10/982,513 : NOTICE
Filed: November 4, 2004 :
Attorney Docket No. 31606/L50149 :

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 January 11, 2011, does not include a proper itemization. In this regard, the issue and the maintenance fees should be itemized as indicated above.

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

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MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,223,943	:	
Issue Date: May 29, 2007	:	
Application No. 10/982,513	:	NOTICE
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Attorney Docket No. 31606/L50149	:	

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

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.
10/982,535	11/05/2004	Ron Newell	006119.00029	8089

22908 7590 08/05/2010
BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

EXAMINER
FIELDS, BENJAMIN S

ART UNIT	PAPER NUMBER
3684	

MAIL DATE	DELIVERY MODE
08/05/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG - 5 2010

Charles L. Miller
Banner & Witcoff, LTD
10 South Wacker Drive
Suite 300
Chicago, IL 60606

In re Application of	:	
Ron Newell et al.	:	Treatment of Request
Application No. 10/982,535	:	Under 37 CFR 1.48 Petition
Filed: November 5, 2004	:	

For: **MRKET DATA MESSAGE FORMAT**

This is a decision on the request under 37 CFR 1.48, filed January 19, 2007. In view of the papers filed January 19, 2007, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding;

Jim Northey of Houghton, MI 49931

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

The petition is **GRANTED**.

Any questions regarding this letter should be directed to Kambiz Abdi at (571) 272-6702

/Kambiz Abdi/

Kambiz Abdi
Supervisory Patent Examiner Art Unit 3684

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.
10/982,609	11/04/2004	John Michael Snyder	MSFT-4547/177757.03	9086

7590 05/04/2011
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

EXAMINER
CASCHERA, ANTONIO A

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
05/04/2011	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 4, 2011

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:	
John Michael Snyder et al.	:	**DECISION ON PETITION**
Application No. 10982609	:	
Filed: 11/4/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. MSFT-4547/177757.03	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 4, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-20-10

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/982834 Patent No.: 7533022

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Claims

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

_____

_____

_____

SPE /David R. Hudspeth/ **ART UNIT** 2626

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
APR 28 2011
OFFICE OF PETITIONS

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

In re Application of Mellott et al. :
Application No. 10/982,967 : Decision on Petition
Filing Date: November 5, 2004 :
Attorney Docket No. VOCO-03CP :

This is a decision on the petition under 37 CFR 1.137(b) filed February 28, 2011, which requests revival of the application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 5, 2010, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, June 8, 2010. A Notice of Abandonment was mailed on September 15, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied a reply in the form of a request for continued examination and amendment, the required petition fee of $810, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2833 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 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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MYRIAD GENETICS INC.
INTELLECTUAL PROPERTY DEPARTMENT
320 WAKARA WAY
SALT LAKE CITY UT 84108

MAILED
JUN 13 2011
OFFICE OF PETITIONS

In re Application of :
Yu et al. :
Application No. 10/983,011 :
Filed: November 5, 2004 :
Attorney Docket No. 1203-50-IU :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PTA UNDER 37 CFR § 1.705(b)", filed March 9, 2011. Applicants request that the determination of patent term adjustment be corrected from and ninety-nine (99) days to one hundred forty-six (146) days.

The request for review of the patent term adjustment is **DISMISSED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On December 9, 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 ninety-nine (99) days.

Applicants dispute the 83 day reduction for the submission of a supplemental response after the examiner indicated the initial response contained an omission. Applicants acknowledge while such reduction under a literal reading of the rules may possibly be correct, but applicants argue the PTA reduction is unreasonable and inconsistent with the structure and legislative intent of 35 USC §154(b). Instead, applicants contend a reduction of 36 days should be entered.

The Office has considered applicants' argument and finds it unpersuasive that a reduction of 36 days, instead of 83 days is warranted.

A review of the application history confirms a period of reduction of 83 days should have been entered based on 37 CFR 1.704(c)(7). 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:
>
> (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.

A supplemental amendment was filed on June 20, 2007, in response to the Notice of Non-Complaint Amendment (37 CFR 1.111) mailed on June 11, 2007. A reply, which corrected the omission, was not filed until June 20, 2007. As such a reduction of 83 days beginning on March 30, 2007 the day after the date the reply having an omission was filed and ending on the date the reply or other paper correcting the omission was filed on June 20, 2007 is required.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is **ninety-nine (99)** days.

The application is being forwarded to the Office of Data Management for issuance of a 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).

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).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-24-11

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/983036 Patent No.: 7393808

CofC mailroom date: 2-24-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should CofC be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

OK TO ENTER ALL!

/Cam N. Nguyen/

Primary Examiner, AU-1736

StanleySilverman

SPE **Art Unit**

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number:	ROUND 3.0-022 CONT		
Application Number:	10/983,083-Conf. #1854	Filing Date (or 371(b) or (f) Date):	November 8, 2004
Patent Number:	7,671,914	Issue Date:	March 2, 2010
First Named Inventor:			
Title:	INCREASING READOUT SPEED IN CMOS APS SENSORS THROUGH BLOCK READOUT		

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	/Richard J. Botos/	Date	August 17, 2010
Name (Print/Typed)	Richard J. Botos	Registration Number	32,016

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms if more than one signature, see below**.*

[X] *Total of 1 forms are submitted.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: August 17, 2010 Electronic Signature for Richard J. Botos: /Richard J. Botos/

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 08/26/2010

Applicant	: Lin-Ping Ang	: DECISION ON REQUEST FOR
Patent Number	: 7671914	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/983,083	: OF WYETH
Filed	: 11/08/2004	:
		:

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

September 7, 2010

Patent No. : 7,753,287 B2
Appl. No. : 10/983,144
Inventor(s) : Miguel Mota Lopez, et al.
Issued : July 13, 2010
Title : **CLEANING SYSTEM FOR HEADLAMPS OF MOTOR VEHICLES**
Docket No. : **FICO-004/00US 303273-2004**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

COOLEY LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application :
Cai, et al. :
Application No. 10/983,174 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: November 5, 2004 :
Dkt. No.: 072121-0445 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 14, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 743 days, not 350 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e). As the submission of the fee is required for reconsideration of the patent term adjustment, the request for refund is hereby DISMISSED.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Margaret B. Kelley
1321 E. Broad Street
Westfield NJ 07090

MAILED
SEP 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Joseph M. Kelley	:	
Application No. 10/983,253	:	DECISION ON PETITION
Filed: November 4, 2004	:	
Attorney Docket No. JMK1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 7, 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 8, 2009. The Notice of Abandonment was mailed February 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (previously filed), (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $65 extension of time fee submitted with the petition on February 3, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to at (571) 272-2991.

This application is being referred to Technology Center AU 3711 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

Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Patent of Ishidoshiro	:	
Patent No. 7,522,729	:	
Issue Date: April 21, 2009	:	Letter
Application No. 10/983,263	:	
Filing Date: November 4, 2004	:	
Attorney Docket No. MES1P087	:	

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 12, 2011.

The deficiency payment of $1,006 is hereby accepted.

The change of status to large entity has been entered and made of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

AUG 30 2010

OFFICE OF PETITIONS

GARY DEAN RAGNER
711 SW 75TH ST.
#103
GAINSVILLE FL 32607

In re Application of
Ragner
Application No. 10/983,320
Filed: November 6, 2004
For: DYNAMIC ASSOCIATIVE STORAGE SECURITY FOR LONG-TERM MEMORY STORAGE DEVICES

: DECISION ON PETITION

This is a decision on the petition renewed under 37 CFR 1.137(b), filed June 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 7, 2010 for failure to timely submit a proper reply to the Notice of Drawing Inconsistency with Specification (Notice) mailed January 6, 2010. The Notice set a one month period of time for reply. Extensions of time pursuant to 37 CFR 1.136 were not permitted. Notice of Abandonment was mailed April 2, 2010. A petition under 37 CFR 1.137(a) was filed March 24, 2010 and dismissed June 7, 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 has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
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

TERUMO MEDICAL CORPORATION
6200 JACKSON ROAD
ANN ARBOR MI 48103

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of :
Obana, et al. :
Application No. 10/983,703 :
Filed: November 9, 2004 :
Attorney Docket No. **TM3007-0031** :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed July 6, 2010. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period and the application became abandoned on October 7, 2010.

The Request for Continued Examination and amendment filed February 3, 2011, are noted.

The application file is being forwarded to Technology Center 3700, GAU 3734 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLauhglin/

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Cancilla et al.	:	
Application No. 10/984132	:	ON REQUEST FOR RECONSIDERATION
Filing or 371(c) Date: 11/09/2004	:	OF PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
04-507	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed Febvruary 28, 2011. Applicant submits that the Office erred in failing to calculate a reduction of 93 days pursuant to 37 CFR 1.704(a), and a reduction of 58 days pursuant to 37 CFR 1.704(c)(8). The request for reconsideration of patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

The request for reconsideration of patent term adjustment is **GRANTED to the EXENT INDICATED**.

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 one hundred sixty-eight **(168)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On November 26, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 226 days.

On February 28, 2011, applicant timely submitted the present application for patent term adjustment[1]. Applicant asserts that the Office erred in failing to calculate reductions of 93 days pursuant to 37 CFR 1.704(a), and 58 days pursuant to 37 CFR 1.704(c)(8).

Applicant's argument has been carefully considered. As to applicants assertion that the Office erred in failing to calculate reductions of 93 days pursuant to 37 CFR 1.704(a), Applicant brings to the Office's attention the filing of an Appeal Brief on September 13, 2010, two (2) months and 93 days after filing a Notice of Appeal on April 12, 2010. Applicant is advised 37 CFR 1.704(b)

[1] Office records show that the Issue Fee payment was received in the Office on February 28, 2011.

provides the grounds for reduction of the patent term where an applicant fails to engage in reasonable efforts to conclude prosecution of the application. The Rule states, in relevant part, that

> 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.... (Emphasis supplied).

The filing of a Brief in support of an appeal is not a "ground of adjustment" under 37 CFR 1.704(b), an no period of reduction in connection with the filing of the Appeal Brief on September 13, 2010 is warranted.

As to the reduction pursuant to 37 CFR 1.704(c)(8), a review of Office records confirm that applicant filed a Request for Continued Examination ("RCE"), and an Amendment in response to a final Office action, on March 2, 2009. Thereafter, applicants filed a Supplemental Amendment on April 29, 2009. As such, pursuant to 37 CFR 1.704(c)(8), the application is properly assessed a reduction of 58 days, commencing March 3, 2009, the day after the date that the reply to the final Office action was filed, and ending on the date the Supplemental Amendment was filed, April 29, 2009.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is one hundred sixty-eight (168) days, subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10984132 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10984132

Application Filing Date	11/09/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	497
A Delays	497	PTO Manual Adjustment	-58
B Delays	0	Applicant Delay (APPL)	271
C Delays	0	Total PTA (days)	168

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
89	07/14/2011		P028	Adjustment of PTA Calculation by PTO		58	0
82	11/26/2010	04/12/2010	MN/=.	Mail Notice of Allowance			71
81	11/23/2010		IREV	Issue Revision Completed			0
80	11/23/2010		DVER	Document Verification			0
79	11/22/2010		N/=.	Notice of Allowance Data Verification Completed			0
78	11/22/2010		DOCK	Case Docketed to Examiner in GAU			0
77	11/22/2010		CNTA	Allowability Notice			0
75	09/23/2010		FWDX	Date Forwarded to Examiner			0
73	09/20/2010		APBR	Appeal Brief Review Complete			0
74	09/13/2010		AP.B	Appeal Brief Filed			0
72	09/13/2010		XT/G	Request for Extension of Time - Granted			0
71	04/12/2010		N/AP	Notice of Appeal Filed			0
69	02/23/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
68	02/18/2010		CTFR	Final Rejection			0
70	02/16/2010		LET.	Miscellaneous Incoming Letter			0
67	01/15/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
66	01/13/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
65	12/14/2009		FWDX	Date Forwarded to Examiner			0
64	11/17/2009	09/17/2009	A...	Response after Non-Final Action		61	62
63	11/17/2009		XT/G	Request for Extension of Time - Granted			0
62	06/17/2009		MCTNF	Mail Non-Final Rejection			0
61	06/16/2009		CTNF	Non-Final Rejection			0
59	05/08/2009		FWDX	Date Forwarded to Examiner			0
57	05/08/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
58	04/29/2009		SA..	Supplemental Response			0
56	04/27/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
55	04/09/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
54	04/07/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
53	03/10/2009		FWDX	Date Forwarded to Examiner			0
51	03/10/2009		FWDX	Date Forwarded to Examiner			0
49	03/10/2009		ABN9	Disposal for a RCE / CPA / R129			0
52	03/02/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
50	03/02/2009	12/02/2008	RCEX	Request for Continued Examination (RCE)		90	46
48	03/02/2009		XT/G	Request for Extension of Time - Granted			0
47	03/02/2009		BRCE	Workflow - Request for RCE - Begin			0
46	09/02/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
45	08/29/2008		CTFR	Final Rejection			0
40	06/21/2008		FWDX	Date Forwarded to Examiner			0
39	06/12/2008	03/12/2008	A...	Response after Non-Final Action		92	36
38	06/12/2008		XT/G	Request for Extension of Time - Granted			0
37	04/17/2008		DOCK	Case Docketed to Examiner in GAU			0
36	12/12/2007		MCTNF	Mail Non-Final Rejection			0
35	12/10/2007		CTNF	Non-Final Rejection			0
34	09/26/2007		FWDX	Date Forwarded to Examiner			0
33	09/17/2007	08/20/2007	A...	Response after Non-Final Action		28	30
32	08/23/2007		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
31	08/23/2007		FWDX	Date Forwarded to Examiner			0
30.1	08/20/2007		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
30	08/20/2007		A...	Response after Non-Final Action			0
29	07/24/2007		DOCK	Case Docketed to Examiner in GAU			0
28	05/21/2007	01/09/2006	MCTNF	Mail Non-Final Rejection	497		0.5
27	05/14/2007		CTNF	Non-Final Rejection			0
24	03/12/2007		DOCK	Case Docketed to Examiner in GAU			0
23	02/02/2007		DOCK	Case Docketed to Examiner in GAU			0
22	09/18/2006		DOCK	Case Docketed to Examiner in GAU			0
21	08/31/2006		DOCK	Case Docketed to Examiner in GAU			0
20	08/31/2006		DOCK	Case Docketed to Examiner in GAU			0
25	07/24/2006		IDSC	Information Disclosure Statement considered			0
19.7	07/24/2006		M844	Information Disclosure Statement (IDS) Filed			0
19	07/24/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
18	02/28/2006		DOCK	Case Docketed to Examiner in GAU			0
17	11/21/2005		RESC	Rescind Nonpublication Request for Pre Grant Publication			0
16	09/25/2005		DOCK	Case Docketed to Examiner in GAU			0
15	04/20/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	04/20/2005		DOCK	Case Docketed to Examiner in GAU			0
10	12/14/2004		COMP	Application Is Now Complete			0
11	12/13/2004		WROIPE	Application Return from OIPE			0

9	12/13/2004	ROIPE	Application Return TO OIPE	0
8	12/13/2004	WROIPE	Application Return from OIPE	0
7	12/13/2004	ROIPE	Application Return TO OIPE	0
5	12/13/2004	COMP	Application Is Now Complete	0
6	12/12/2004	OIPE	Application Dispatched from OIPE	0
3	12/06/2004	L194	Cleared by OIPE CSR	0
2	11/24/2004	SCAN	IFW Scan & PACR Auto Security Review	0
26	11/09/2004	IDSC	Information Disclosure Statement considered	0
13	11/09/2004	RCAP	Reference capture on IDS	0
12.7	11/09/2004	M844	Information Disclosure Statement (IDS) Filed	0
12	11/09/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
4	11/09/2004	NPRQ	PGPubs nonPub Request	0
1	11/09/2004	IEXX	Initial Exam Team nn	0
0.5	11/09/2004	EFILE	Filing date	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)
7143446	2006-12-05	10984330	2004-11-08	117-037

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	/Antonio Papageorgiou/	Date (YYYY-MM-DD)	2011-04-19
Name	Antonio Papageorgiou	Registration Number	53431

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. 7143446
Issue Date: December 5,2006
Application No. 10984330
Filed: November 8,2004
Attorney Docket No. 117-037

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 19,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 19,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7088444	2006-08-08	10984463	2004-11-08	008484USA03/BOX012-1D

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	/omkar suryadevara/	Date (YYYY-MM-DD)	2010-09-16
Name	Omkar Suryadevara	Registration Number	36320

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. 7088444
Issue Date: August 8,2006
Application No. 10984463
Filed: November 8,2004
Attorney Docket No. 008484USA03/BOX012-1D

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TUALATIN OR 97062

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application	:	
Stephen F. Glass	:	
Application No. 10/984,643	:	DECISION ON APPLICATION
Filed: November 8, 2004	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. SDT 306A	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)", filed September 13, 2011. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred twenty-six (326) days to one thousand eight hundred twenty-one (1821) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand five hundred thirty-seven (1537) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 13, 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 three hundred twenty-six (326) days. On September 13, 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 five hundred ninety-four (594) days.

The Office initially determined a patent term adjustment of three hundred twenty-six (326) days based on an adjustment for PTO delay of 326 days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0) days of Applicant delay.

Applicant asserts entitlement to a patent term adjustment of one thousand eight hundred twenty-one (1821) days on the basis that the PTO should be accorded one thousand two hundred three (1203) days of "C" delay for the number of days between the Notice of Appeal and the mailing of the Board decision. In addition, Applicant asserts that the Office should also be accorded two hundred ninety-two (292) days of "B" delay for failing to issue the application within three years of filing.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

With respect to the issue of "C" delay, the application has been reviewed, and Applicant is correct. Applicant filed a Notice of Appeal on January 4, 2008. The Office mailed a Board decision until April 28, 2011. Accordingly, 1211 days of "C" delay should have been assessed (not 1203 days as asserted by Applicant).

With respect to the matter of "B" delay, 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

[1] Applicant filed the application for patent term adjustment on the same date as the issue fee.

determination on the correctness of the patent term adjustment until the patent has issued.

However, 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).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one thousand five hundred thirty-seven (1537) days** (326 days of "A" delay and 1203 days of "B" delay, reduced by 0 days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10984643 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10984643

Application Filing Date	11/08/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	326
A Delays	326	PTO Manual Adjustment	1211
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	1537

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
100	10/17/2011		P028	Adjustment of PTA Calculation by PTO	1211		0
89	06/13/2011		MN/=.	Mail Notice of Allowance			0
88	06/13/2011		OAR	Office Action Review			0
87	06/13/2011		OAR	Office Action Review			0
86	06/13/2011		IREV	Issue Revision Completed			0
85	06/13/2011		DVER	Document Verification			0
84	06/13/2011		N/=.	Notice of Allowance Data Verification Completed			0
83	06/09/2011		EX.R	Reasons for Allowance			0
82	06/09/2011		CNTA	Allowability Notice			0
81	04/28/2011		MAPD3	Mail - Dec on Reconsideration - Granted in Part			0
80	04/27/2011		APD3	Dec on Reconsideration - Granted in Part			0
79	05/24/2010		APRR	Request for Reconsideration of Appeal Dec			0
78	03/25/2010		MAPDA	Mail BPAI Decision on Appeal - Affirmed			0
77	03/25/2010		APDA	BPAI Decision - Examiner Affirmed			0
75	02/17/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
74	02/17/2009		APAS	Assignment of Appeal Number			0
73	12/10/2008		APWD	Appeal Awaiting BPAI Docketing			0
72	09/22/2008		MRBNE	Mail Reply Brief Noted by Examiner			0
71	09/19/2008		RBNE	Reply Brief Noted by Examiner			0
70	07/07/2008		FWDX	Date Forwarded to Examiner			0
69	07/01/2008		APRB	Reply Brief Filed ,			0
68	05/14/2008	01/04/2008	MAPE2	Mail Supplemental Examiner's Answer			59
67	05/12/2008		APE2	2nd or Subsequent Examiner's Answer to Appeal Brief			0
66	05/05/2008		TCRD	Return of Undocketed appeal to the TC			0
65	05/05/2008		PACC	Exam. Ans. Review Complete			0
64	05/01/2008		MAPEA	Mail Examiner's Answer			0
63	04/28/2008		APEA	Examiner's Answer to Appeal Brief			0
62	03/17/2008		APBR	Appeal Brief Review Complete			0
61	03/17/2008		FWDX	Date Forwarded to Examiner			0
60	03/06/2008		AP.B	Appeal Brief Filed			0
59	01/04/2008		N/AP	Notice of Appeal Filed			0
58	10/04/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
57	10/01/2007		CTFR	Final Rejection			0
56	07/25/2007		FWDX	Date Forwarded to Examiner			0
55	07/12/2007		A...	Response after Non-Final Action			0
54	07/12/2007		C602	Oath or Declaration Filed (Including Supplemental)			0
53	04/12/2007		MCTNF	Mail Non-Final Rejection			0
52	04/04/2007		CTNF	Non-Final Rejection			0
34	01/23/2007		FWDX	Date Forwarded to Examiner			0
37	12/29/2006		IDSC	Information Disclosure Statement considered			0
36	12/29/2006		RCAP	Reference capture on IDS			0
35.7	12/29/2006	12/29/2006	M844	Information Disclosure Statement (IDS) Filed			33
35	12/29/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
33	12/29/2006		ELC.	Response to Election / Restriction Filed			0
32	11/30/2006	01/08/2006	MCTRS	Mail Restriction Requirement	326		0.5
31	11/27/2006		CTRS	Restriction/Election Requirement			0
30	10/18/2006		DOCK	Case Docketed to Examiner in GAU			0
29	12/12/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
28	12/12/2005		DOCK	Case Docketed to Examiner in GAU			0
39	10/08/2005		IDSC	Information Disclosure Statement considered			0
26.7	10/08/2005		EIDS.	Electronic Information Disclosure Statement			0
26	10/08/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
38	10/05/2005		IDSC	Information Disclosure Statement considered			0
27.7	10/05/2005		M844	Information Disclosure Statement (IDS) Filed			0
27	10/05/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
40	07/24/2005		IDSC	Information Disclosure Statement considered			0

25.7	07/24/2005	EIDS.	Electronic Information Disclosure Statement	0
25	07/24/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
24	07/15/2005	TI1050	Transfer Inquiry to GAU	0
50	06/04/2005	IDSC	Information Disclosure Statement considered	0
49	06/04/2005	IDSC	Information Disclosure Statement considered	0
48	06/04/2005	IDSC	Information Disclosure Statement considered	0
47	06/04/2005	IDSC	Information Disclosure Statement considered	0
46	06/04/2005	IDSC	Information Disclosure Statement considered	0
45	06/04/2005	IDSC	Information Disclosure Statement considered	0
44	06/04/2005	IDSC	Information Disclosure Statement considered	0
43	06/04/2005	IDSC	Information Disclosure Statement considered	0
42	06/04/2005	IDSC	Information Disclosure Statement considered	0
41	06/04/2005	IDSC	Information Disclosure Statement considered	0
23.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
23	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
22.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
22	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
21.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
21	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
20.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
20	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
19.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
19	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
18.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
18	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
17.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
17	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
16.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
16	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
15.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
15	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
14.7	06/04/2005	EIDS.	Electronic Information Disclosure Statement	0
14	06/04/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
51	04/27/2005	IDSC	Information Disclosure Statement considered	0
13.7	04/27/2005	M844	Information Disclosure Statement (IDS) Filed	0
13	04/27/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
12	01/14/2005	TI1050	Transfer Inquiry to GAU	0
10	12/21/2004	COMP	Application Is Now Complete	0
5	12/21/2004	COMP	Application Is Now Complete	0
11	12/20/2004	WROIPE	Application Return from OIPE	0
9	12/20/2004	ROIPE	Application Return TO OIPE	0
8	12/20/2004	WROIPE	Application Return from OIPE	0
7	12/20/2004	ROIPE	Application Return TO OIPE	0
6	12/20/2004	OIPE	Application Dispatched from OIPE	0
4	12/07/2004	L194	Cleared by OIPE CSR	0
3	12/07/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	11/27/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	11/08/2004	IEXX	Initial Exam Team nn	0
0.5	11/08/2004	EFILE	Filing date	0

Export to: Excel

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Carl F. Edman et al.	:	
Application No. 10/984,681	:	DECISION ON PETITION
Filed: November 8, 2004	:	TO WITHDRAW
Attorney Docket No. **PHILO.005A**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 5, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Thomas R. Arno does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

It is also noted that the 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.*

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 571-272-4584.

/JoAnne Burke/
JoAnne Burke
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	10984776
Filing Date	10-Nov-2004
First Named Inventor	Man-seok Kang
Art Unit	2422
Examiner Name	MICHAEL LEE
Attorney Docket Number	1101.0120
Title	INFORMATION STORAGE MEDIUM CONTAINING SUBTITLES AND PROCESSING APPARATUS 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	/Randall S. Svihla/
Name	Randall S. Svihla
Registration Number	56273

UNITED STATES 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 :

Man-seok Kang

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10984776

Filed : 10-Nov-2004

Attorney Docket No : 1101.0120

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 2422 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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NSIP LAW
P.O. BOX 34688
WASHINGTON DC 20043

MAILED

SEP 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Kang, et al.	:	
Application No. 10/984,776	:	DECISION ON PETITION
Filed: 10 November, 2004	:	
Attorney Docket No. 1101.0120	:	

This is a decision on the petition filed on 1 September, 2011, pursuant to 37 C.F.R §1.182 requesting authorization to withdraw the two terminal disclaimers filed 28 April, 2011.

NOTE:

Petitioner seeks to reopen the question of the propriety of the double patenting rejection that prompted the filing of terminal disclaimers—historically, such requests have not been favorably considered. (*See*: MPEP §1490.)

Petitioner now must present an Interview Summary provided by the Examiner evidencing that Petitioner has satisfied the objections raised by the Examiner to the withdrawal of the terminal disclaimers in question.

As of this writing, there has been no response of concurrence from the Patent Legal Research Center in this matter. Thus, once the requirement to evidence the Examiner's concurrence has been satisfied, the Office also must ensure that the subsequent concurrence of the Patent Legal Research Center can be obtained.

Petitioner, as one registered to practice before the Office is aware that every application before the Office is a separate application. (*See:* 37 C.F.R. §1.4(b).)

Nonetheless, Petitioner chose to submit a copy of a decision mailed in another application—an application that is not related in chain to the instant application.

Moreover, Petitioner, as one registered to practice before the Office knew or should have known that that all practice before the Office is in writing (*see:* 37 C.F.R. §1.2[1]) and the

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.

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/Caller's action(s).

Nonetheless, the record reflects that Petitioner sought to obtain conversational commitments from Office personnel in a form of "forum shopping, and then utilize the averred contents of those conversations to direct the Office as to further action in the instant matter.[2]

The Office will be guided in this matter by the written record.

The petition pursuant to 37 C.F.R §1.182 is **DISMISSED**.

The guidance in the Commentary at MPEP §1490 provides in pertinent part:

***

VII. WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double

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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.

[2] Petition, at page 2.

> patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)
>
> ***

It appears that Petitioner well may have determined for purposes of prosecution strategy to submit the terminal disclaimer notwithstanding Petitioner's own beliefs that the disclaimer was unnecessary.

Thus, Petitioner appears to have made choices deemed to provide to him a prosecution road to allowance, and the Office will not indiscriminately alter those choices.

On any renewed petition, Petitioner must present the concurrence of the Examiner in the form of an Interview Summary.

Accordingly, the petition is **dismissed**.

This application is released to the Technology Center/AU 2422 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted 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/Caller's action(s).

/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[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.

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NSIP LAW
P.O. BOX 34688
WASHINGTON DC 20043

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Application of
Kang, et al.
Application No. 10/984,776
Filed: 10 November, 2004
Attorney Docket No. 1101.0120

DECISION ON PETITION

This is a decision on the petition filed on 8 November, 2011, pursuant to 37 C.F.R §1.182 requesting authorization to withdraw the two terminal disclaimers filed 28 April, 2011.

The petition pursuant to 37 C.F.R §1.182 is **GRANTED**.

The guidance in the Commentary at MPEP §1490 provides in pertinent part:

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VII. WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal

> disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)
>
> ***

The original petition of 1 September, 2011, was dismissed on 8 September, 2011.

Thereafter, the Examiner stated that he concurred in the withdrawal of the TDs in question, and further set forth in an Interview Summary of 28 November, 2011, that the instant application "has no double patenting issue."

Petitioner re-advanced his petition on 7 December, 2011, with a more complete showing in his effort to satisfy the requirements, including but not limited to the statement of the Examiner.

Accordingly, the petition is **granted**.

This application is released to the Technology Center/AU 2422 for further processing in due course, to include but not be limited to the withdrawal of the two terminal disclaimers filed 28 April, 2011.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted 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/Caller's action(s).

/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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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.

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WASHINGTON DC 20043

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FEB 24 2012
OFFICE OF PETITIONS

In re Application of :
Kang, et al. :
Application No. 10/984,776 : DECISION ON PETITION
Filed: 10 November, 2004 :
Attorney Docket No. 1101.0120 :

This is a decision on the petition filed on 8 February, 2012, pursuant to 37 C.F.R §1.182 requesting clarification of the decision of 18 January, 2012, authorizing withdrawal of the terminal disclaimer filed 14 July, 2008.

The petition pursuant to 37 C.F.R §1.182 is **GRANTED**.

The decision of 18 January, 2012, referenced two terminal disclaimers—there was only one terminal disclaimer—and that was the terminal disclaimer of 14 July, 2008[1]—and that disclaimer was authorized to be withdrawn.[2]

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[1] The date previously was stated in error as 28 April, 2011.

[2] The guidance in the Commentary at MPEP §1490 provides in pertinent part:

***

VII. WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)

The original petition of 1 September, 2011, was dismissed on 8 September, 2011.

Thereafter, the Examiner stated that he concurred in the withdrawal of the TDs in question, and further set forth in an Interview Summary of 28 November, 2011, that the instant application "has no double patenting issue."

Petitioner re-advanced his petition on 7 December, 2011, with a more complete showing in his effort to satisfy the requirements, including but not limited to the statement of the Examiner, and that petition was granted, however, with an incorrect date as to the terminal disclaimer.

Petitioner submitted on 8 February, 2012, a request for clarification and correction.

Accordingly, the petition of 8 February, 2012, is **granted**—the terminal disclaimer of 14 July, 2008, may be and hereby is authorized to be withdrawn.

This application is released to the Technology Center/AU 2422 for further processing in due course, to include but not be limited to the withdrawal of the terminal disclaimer filed 14 July, 2008.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted 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/Caller'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.

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DEC 22 2010

OFFICE OF PETITIONS

JACKSON IPG PLLC
106 STARVALE LN
SHIPMAN VA 22971

In re
Patent No. 7,104,692
Issued: September 12, 2006
Application No. 10/984,793
Filed: November 10, 2004

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 26, 2010.

The fee deficiency submission under 37 CFR 1.28 of $490 for the first maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Paper No.

COOK ALEX LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of Chun-Min Lu Application No. 10/984,793 Patent No. 7,104,692 Filed: November 10, 2004 Issue Date: September 12, 2006 Attorney Docket Number: 3210-0013 Title: BALL SLEEVE FOR USE IN THE INNER SLIDING RAIL OF A HIDDEN SLIDING TRACK ASSEMBLY	DECISION ON PETITION UNDER 37 C.F.R. § 1.377(b)

This is a decision on the petition submitted on February 18, 2011, pursuant to 37 C.F.R. § 1.377(b) to accept and record payment of a maintenance fee.

The present petition is **DISMISSED AS UNNECESSARY.**

The above-identified patent issued on September 12, 2006. Thus, the window for paying the 3½-year maintenance fee extended from September 12, 2009 to March 12, 2010 without surcharge, and from March 13, 2010 to September 12, 2010 with a surcharge.

Office record show that on February 19, 2010, the 3½-year maintenance fee was timely submitted in the amount of $490.[1] As such, Office records show that this patent is currently in effect, and this petition was not necessary.

The petition fee of $200.00 has not been charged to Petitioner's Deposit Account.

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1 A petition pursuant to 37 C.F.R. § 1.28(c) was later submitted on October 26, 2010 along with the $490 deficiency payment, and this petition was granted via the mailing of a decision on December 22, 2010.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Demian K. Jackson
Jackson IPG PLLC
106 Starvale Lane
Shipman, VA 22971

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Weiss et al.	:	
Application No. 10/985,092	:	DECISION ON PETITION
Filed: November 10, 2004	:	PURSUANT TO
Attorney Docket No.: D4951-00047	:	37 C.F.R. § 1.181
Title: SMOKER'S STATION	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," submitted on February 16, 2009. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.181(a).

This petition is **DISMISSED**.

Receipt of the concurrently submitted issue and publication fees is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 10, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 11, 2009. A Notice of Abandonment was mailed on February 2, 2009.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.32(c)(3) sets forth, *in toto*:

> c) A power of attorney may only name as representative:
>
> (3) Ten or fewer patent practitioners, stating the name and registration number of each patent practitioner. Except as provided in paragraph (c)(1) or (c)(2) of this section, the Office will not recognize more than ten patent practitioners as being of record in an application or patent. If a power of attorney names more than ten patent practitioners, such power of attorney must be accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office

37 C.F.R. § 1.33(a)(2) and (b)(2) set forth, *in pertinent parts*:

> (a) The correspondence address may be changed as follows:
>
> (2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
>
> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;

ANALYSIS

With this petition, Petitioner has indicated that a change of address was filed with the Office on July 31, 2008, a notice was received from the Office (dated August 14, 2008), and the change of correspondence address "was not properly made by the USPTO."

This petition is being construed to contain a statement that the Notice of Allowance and Issue Fee Due was not received by Petitioner. **On renewed petition, Petitioner must clarify whether this is correct.**

The notice of August 14, 2008 has been reviewed, and it is clear that it was proper for the Office to fail to effectuate the change of address request. Petitioner will note that the notice of August 14, 2008 explicitly indicated that the power of attorney filed on July 31, 2008 was not accepted by the Office, as it is not in compliance with 37 C.F.R. § 1.32.

A discussion follows.

This application was filed with a fully executed declaration which listed the law firm of Duane, Morris, LLP in Philadelphia, PA as the correspondence address; therefore, a patent practitioner who is not of record cannot change the correspondence address, pursuant to 37 C.F.R. § 1.33(a)(2).

On July 31, 2008, Petitioner submitted a Rule 3.73(b) statement that has been executed by Petitioner, a change of address request that has been executed by Petitioner, and a power of attorney that that has been executed by an officer of the Assignee of record (entitled "general power of attorney.") It is noted that Petitioner is one of the twelve attorneys listed on the "general power of attorney." Clearly, the intent was for the power of attorney to be effectuated, making Petitioner an attorney of record and thus enabling him with the ability to properly sign the change of address request.

However, the power of attorney was ineffective, as it "names more than ten patent practitioners" and was not "accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office," as is required by 37 C.F.R. § 1.32(c)(3).

It follows that the change of address request could not be effectuated, and the Notice of Allowance and Issue Fee Due was properly mailed to the law firm of Duane, Morris, LLP in Philadelphia, PA.

It is noted that a newly executed power of attorney which lists ten attorneys and a newly executed change of address has been submitted concurrently with this petition. Both have been effectuated.

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 she can successfully assert that the entire period of delay was unavoidable, she 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,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 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.

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Paper No.

MAILED
MAY 26 2011
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

In re Application of	:	
Weiss et al.	:	
Application No. 10/985,092	:	DECISION ON PETITION
Filed: November 10, 2004	:	PURSUANT TO
Attorney Docket No.: D4951-00047	:	37 C.F.R. § 1.137(b)
Title: SMOKER'S STATION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 24, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 10, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 11, 2009. A Notice of Abandonment was mailed on February 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 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

§ 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.

A petition pursuant to 37 C.F.R. § 1.181(a) was filed on February 16, 2009, along with the issue and publication fees. The petition pursuant to 37 C.F.R. § 1.181(a) was dismissed via the mailing of a decision on December 20, 2010.

With this petition pursuant to 37 C.F.R. § 1.137(b), Petitioner has submitted the petition fee and the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries

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3 See Rule 1.137(d).

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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United States Patent and Trademark Office
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DURECT CORPORATION
2 RESULTS WAY
CUPERTINO, CA 95014

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of
Guohua Chen
Application No. 10/985,122
Filed: November 10, 2004
Attorney Docket No. DURE-328

DECISION ON PETITION

This is a decision on the petition, filed March 29, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed August 4, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 17, 2011.

Petitioner asserts that the Office action dated August 4, 2010, was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of August 4, 2010. In this regard, the Office received a Revocation of Power of Attorney with a new Power of Attorney and Change of Address request on May 3, 2010, prior to the mailing of the Office action of August 4, 2010. Office records were not updated to reflect this new Power of Attorney and Change of Address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed February 17, 2011 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1617 for remailing the Office action of August 4, 2010 and resetting the period for reply.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AUG 04 2010

OFFICE OF PETITIONS

GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

In re Application of	:	
Sun et al.	:	
Application No. 10/985179	:	ON PETITION
Filing or 371(c) Date: 11/10/2004	:	
Attorney Docket Number: 6466	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed March 31, 2010.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 25, 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). Accordingly, the date of abandonment of this application is December 26, 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 under 37 CFR 1.53(b); (2) the petition fee; 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 continuation application No. 12/751282, filed March 31, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

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

FREDERICK L. LEA
9445 OLD NEEDVILLE FAIRCHILDS ROAD
NEEDVILLE TX 77461

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,121,501
Issue Date: October 17, 2006
Application No. 10/985,223
Filed: November 9, 2004
Attorney Docket No. LEA-002

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 12, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

This patent expired on October 17, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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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BRADLEY ARANT BOULT CUMMINGS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1819 FIFTH AVENUE NORTH
BIRMINGHAM AL 35203-2104

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
John L. Miller, Jr. :
Application No. 10/985,245 :
Filed: November 10, 2004 :
Atty Docket No. **P73902US01TL** :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed July 20, 2010, which is properly treated under 37 C.F.R. § 1.705(b). Applicant submits that the patent term adjustment to be indicated on the patent is four hundred and sixty-four (465) days, not one hundred and fifty-four (154) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on September 16, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/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

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Wilson et al.	:	
Application No. 10/985,339	:	
Filed: 11/10/2004	:	
Attorney Docket No. 3003.04US02	:	

This is a decision on the "PETITION TO CHANGE INVENTOR NAME (37 CFR 1.182) filed March 25, 2010, from "Dan Welch" to – Daniel P. Welch --.

The petition is **GRANTED**.

Office records have been updated to reflect the correction of the inventor's name. A corrected Filing Receipt, which reflects the inventor's name change, accompanies this decision on petition.

Any questions concerning this matter may be directed to undersigned at (571) 272-3211.

This matter is being referred to the Office of Data Management.

C. T. Donnell

Christina Tartera Donnell
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
10/985,339	11/10/2004	1797	2799	3003.04US02	1	1

CONFIRMATION NO. 3352

CORRECTED FILING RECEIPT

24113
PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

OC000000043216678

Date Mailed: 08/25/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John R. Wilson, New Brighton, MN;
Daniel P. Welch, Zimmerman, MN;
Alison Robeck, Monticello, MN;
Douglas A. Page, Eden Prairie, MN;

Power of Attorney: The patent practitioners associated with Customer Number 24113

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/519,676 11/10/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/985,339**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

COMPARTMENTALIZED DEVICE FOR CELL CULTURE, CELL PROCESSING, AND SAMPLE DIALYSIS

Preliminary Class

435

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/22//10

TO SPE OF : ART UNIT 3714 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/985,350 Patent No.: 7,841,936

C of C mailroom date 12/15/2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, *LIE*

Certificates of Correction Branch

703-756-1814 or 571-272-3385

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 Melba Bumgarner **ART UNIT** 3717

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO, CA 92101

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of :
Robert A. McEntee, et al. :
Application No.: 10/985,352 : ON PETITION
Filed: November 9, 2004 :
Attorney Docket No.: 113749-2008US :

This is a decision on the petition, filed December 14, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 11, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2626 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Goronzy-Thomae et al.	:	
Application No. 10/985,446	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 282752US8X	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed July 13, 2011, to change the name of an inventor.

The petition is **GRANTED**.

The name will be changed from "Silke Goronzy" to -- Silke Goronzy-Thomae --.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-7751. All other inquiries should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/985,446	11/10/2004	2626	950	282752US8X	26	3

CONFIRMATION NO. 7263

CORRECTED FILING RECEIPT

22850
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000049021568

Date Mailed: 07/29/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Silke Goronzy-Thomae, Fellbach-Schmiden, GERMANY;
Thomas Kemp, Esslingen, GERMANY;
Ralf Kompe, Rottenbach, GERMANY;
Yin Hay Lam, Stuttgart, GERMANY;
Krzysztof Marasek, Warszawa, POLAND;
Raquel Tato, Stuttgart, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 22850

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
EUROPEAN PATENT OFFICE (EPO) 03 026 049.1 11/12/2003

If Required, Foreign Filing License Granted: 01/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/985,446**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and method for automatic extraction of important events in audio signals

Preliminary Class

704

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.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/6/10

TO SPE OF : ART UNIT 1643 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/985459 Patent No.: 7,447,168

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

_____

_____

_____

SPE /Seema S. Rao/ **ART UNIT** 2462

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)
7019214	2006-03-28	10985519	2004-11-10	WBW-12717

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	/Laurence A. Greenberg/	Date (YYYY-MM-DD)	2011-04-04
Name	Laurence A. Greenberg	Registration Number	29308

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. 7019214
Issue Date: March 28,2006
Application No. 10985519
Filed: November 10,2004
Attorney Docket No. WBW-12717

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 4,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 4,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA PA 19103-6996

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
Faasse et al. :
Application Number: 10/985,709 :
Filing Date: 11/10/2004 :
Attorney Docket Number: 09257-103 US1 (196519) :

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b) filed on December 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 5, 2010, for failure to timely respond to the Board of Patent Appeals and Intereferences (Board) Decision affirming the examiner mailed on August 4, 2010. Notice of Abandonment was mailed on November 26, 2010.

Receipt of the Request for Continued Examination (RCE) and submission under § 1.114 filed on December 21, 2010, are acknowledged.

The application is referred to Technology Center Art Unit 1612 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: March 1, 2011

2 Serial/Patent # 10/985,756

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition		Feb. 14, 2011	$ 1620
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1620

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:

9 06--1130

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Petition fee previously paid on October 4, 2006

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Robert DeWitty TITLE: Atty. Advisor

SIGNATURE: PHONE:

OFFICE: Petition

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE:

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

Fee Processing

(For Petitions Use Only)

App. No./Pat No.
10/985,756
Atty Docket No./Cust. No.
00008(ON (BLL-0208-C)
Paper Rec'd Date
Feb 17, 2011
Form Completed
March 1, 2011

Check Amt. #1

Check Amt. #2

Deposit Acct.
061130

Fee Code	Fee Amt.	Paper #
1453	$1620	

Credit Card ☐ (See attached)

Refund ☑ (See attached)

(PTO Employee - please circle the code(s) and amount(s) to be refunded/credited)

Change App No./Pat. No. ☐

From

To

Change Fee Code ☐

From Code	Amount

To Code	Amount	Paper #

Special Instructions:

Thank You*

Initials (PTO Employee) Initials (Contractor) Date Processed

PLEASE REMOVE THIS FORM BEFORE SENDING FILE OUT OF THE OFFICE OF PETITIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

AT&T Legal Department - CC
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of :
Dannie E. MARTIN : DECISION GRANTING PETITION
Application No. 10/985,756 : UNDER 37 CFR 1.137(b)
Filed: 10 November 2004 :
Atty. Docket No.: 00008CON(BLL-0208-C):

This is a decision on the petition under 37 CFR 1.137(b), filed 4 October 2006, and resubmitted February 14, 2011 to revive the above-identified application ("Application").

The petition is **GRANTED**.

The Application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 6 March 2006 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 7 June 2006, with notification mailed 27 September 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $1500.00, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

The application file will be referred to Technology Center AU 2617 for further action on the filed Response.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. David A. Fox
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

BUHLER ASSOCIATES
BUHLER, KIRK A.
1101 CALIFORNIA AVE.
SUITE 208
CORONA CA 928814

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Alan Paine	:	DECISION GRANTING PETITION
Application No. 10/985,771	:	UNDER 37 CFR 1.137(b)
Filed: November 9, 2004	:	
Atty. Docket No.: 004-37	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed February 13, 2009, which set a shortened statutory period of reply of three (3) months. The application thus became abandoned on May 14, 2009 and a Notice of Abandonment was mailed October 2, 2009.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the nonfinal Office action, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the nonfinal Office action 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 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 relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 3742 for further action on the filed Response.

for

David Bucci
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7017432	2006-03-28	10/985,957	2004-11-12	068880/00001G

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/michael t. smith/	Date (YYYY-MM-DD)	2010-11-08
Name	Michael T. Smith	Registration Number	47099

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. 7017432
Issue Date: March 28,2006
Application No. 10985957
Filed: November 12,2004
Attorney Docket No. D-21471-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **01/19/12**

TO SPE OF : ART UNIT: **2454 Attn: AVELLINO JOSEPH E (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/986159** Patent No.: **8078707**

CofC mailroom date: 01/11/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: **Please check Claim19**
Should this claim be amended again as requested or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: The applicants request to, in Claim 19 (Column 12, Line 41 of US 8078707), after the word "domain, delete the word "is" and insert the word "are." This request to Claim 19 does not introduce new matter nor does it change the scope or meaning of the instant claim.

SPE

2454
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

FEB 07 2012

PCT LEGAL ADMINISTRATION

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of: ZALIT, Ilan, et al.
U.S. Application No.: 10/986,494
Filing Date: November 10, 2004
Attorney's Docket No.: 1662/80001
For: COMPRESSED SOLID DOSAGE FORM MANUFACTURING PROCESS ...

DECISION ON PETITION UNDER 37 CFR 1.55(c)

This decision is issued in response to the "Petition Under 37 CFR 1.55(c)" filed on November 23, 2011.

For the reasons set forth below, the petition is **DISMISSED** without prejudice.

35 U.S.C. 365(a) states as follows (emphasis added):

> In accordance with the conditions and requirements of subsections (a) through (d) of section 119 of this title, a national application shall be entitled to the right of priority based on a **prior filed** international application which designated at least one country other than the United States.

Applicants' petition seeks to add to the present application an unintentionally delayed claim of foreign priority under 35 U.S.C. 365(a) directed to international application PCT/US2004/037462. However, PCT/US2004/037462 has an international filing date of November 10, 2004, the same filing date as the present application. PCT/US204/037462 is therefore not a "prior filed" application that may properly be the subject of a foreign priority claim in the present application. Applicants' petition to add to the present application an unintentionally delayed foreign priority claim directed to PCT/US2004/037462 is therefore appropriately dismissed.

Any inquiry regarding the present decision may be directed to the undersigned.

The application is being referred to Group Art Unit 1615 for examination.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,720,154	:	
Application No. 10/986,649	:	
Filed: November 12, 2004	:	ON PETITION
Issued: May 18, 2010	:	
Attorney Docket No. 054788/347532	:	

This is a decision on the petition filed August 16, 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.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: LTM.17-US-U1	
Application Number: 10/986,673	Filing Date (or 371(b) or (f) Date): 11/12/2004
Patent Number: 7,664,605	Issue Date: 02/16/2010
First Named Inventor: CHAIKEN, Joseph	
Title: ABSOLUTE CALIBRATION PROCESS AND...SPECTROMETER	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date 08/10/2010
Name (Print/Typed) Karen S. Canady	Registration Number 39,927

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

KAREN S. CANADY
CANADY & LORTZ LLP
4201 Wilshire BLV Suite 622
LOS ANGELES, CA 90010

Mail Date: 08/16/2010

Applicant	: Joseph Chaiken	: DECISION ON REQUEST FOR
Patent Number	: 7664605	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/986,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **760** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

September 22, 2011

Patent No. : 7,512,074 B2
Appl. No. : 10/986,698
Inventor(s) : Guenael Strutt, et al.
Issued : March 31, 2009
Title : **SYSTEM AND METHOD TO SCOUT FOR ROUTES IN A WIRELESS NETWORK**
Docket No. : **MESH120**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

The petition under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314
(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

By fax: (571) 273-8300
ATTN: Office of Petitions

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

MOTOROLA SOLUTIONS, INC.
IP Law Docketing
1303 EAST ALGONQUIN ROAD
IL01/11th Floor
SCHAUMBURG IL 60196

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE WEBOSTAD FIRM, A PROFESSIONAL CORPORATION
150 NORTH WIGET LANE
SUITE 200
WALNUT CREEK CA 94598

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Shahram Abdollahi-Alibeik, et al.	:	
Application No. 10/986,707	:	NOTICE
Filed: November 12, 2004	:	
Attorney Docket No. TR002-C-2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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)
7175550	2007-02-13	10986726	2004-11-12	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◉ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee, all of whom are signing this petition			
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			
Patentee 1		Remove	
Signature	/Terry Bellah Jr./	Date (YYYY-MM-DD)	2011-03-16
Name	Terry Bellah Jr.		
Patentee 2		Remove	
Signature	/Mike Laney/	Date (YYYY-MM-DD)	2011-03-16
Name	Mike Laney		
Patentee 3		Remove	
Signature	/Danny Pralgo/	Date (YYYY-MM-DD)	2011-03-16
Name	Danny Pralgo		
Patentee 4		Remove	
Signature	/Mike Haverland/	Date (YYYY-MM-DD)	2011-03-16
Name	Mike Haverland		
Additional Patentees may be generated within this form by selecting the Add Button		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. 7175550
Issue Date: February 13,2007
Application No. 10986726
Filed: November 12,2004
Attorney Docket No. 451PDS

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 16,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 16,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/28/11

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10986730 Patent No.: 7688306

CofC mailroom date: 10/20/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: Changes do not change the scope of the claims. Thanks!

RICHARD HOEPPE
SPE, ART UNIT 2629

SPE

AU 2629

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.
10/986,732	11/12/2004	Sam Nemazie	SILICONSTOR-04CIP	8573

77541 7590 08/25/2010
Maryam Imam and LSI Corporation
95 South Market Street
Suite 570
San Jose, CA 95113

EXAMINER
LEE, CHUN KUAN

ART UNIT	PAPER NUMBER
2181	

NOTIFICATION DATE	DELIVERY MODE
08/25/2010	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):

mimam@mi-law.com
vmoitoso@ipxlaw.com
mshea@ipxlaw.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

Maryam Imam and LSI Corporation
95 South Market Street
Suite 570
San Jose CA 95113

In re Application of: NEMAZIE et al.	)	
Application No. 10/986,732	)	Petition under 37 CFR 1.324
Attorney Docket No. SILICONSTOR-04CIP	)	
Filed: November 12, 2004	)	
For: **DUAL PORT SERIAL ADVANCED**	)	
TECHNOLOGY ATTACHMENT (SATA)	)	
DISK DRIVE	)	

In view of the papers and petition filed February 22, 2010, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.324. The inventorship of this application has been changed by adding "Young- Ta Wu" and "Shiang-Jyh Chang" as co-inventors, such that the current inventorship is now Siamack Nemazie, Andrew Hyonil Chong, Young- Ta Wu, and Shiang-Jyh Chang.

The petition has been **Granted**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Inquiries to this decision may be directed to undersigned at (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

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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PILLSBURY WINTHROP SHAW
PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

MAILED
OCT 25 2010
OFFICE OF PETITIONS

In re Patent No. 7,759,762 :
Issue Date: July 20, 2010 :
Application No. 10/986,778 : DECISION ON PETITION
Filed: November 15, 2004 :
Attorney Docket No. 040258-0312648 :

This is a decision on the Request For Certificate Of Correction Under 35 U.S.C. §255 And Pursuant To 37 C.F.R. §1.323, filed September 17, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was a mistake made by the Applicant. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,759,762.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

MAILED

JAN 21 2011

OFFICE OF PETITIONS

Mr. Alfred B. Levine
9005 Seven Locks Road
Bethesda, Maryland 20817

In re Application of	:	
Alfred B. LEVINE	:	DECISION GRANTING PETITION
Application No. 10/986,927	:	UNDER 37 CFR 1.181
Filed: 15 November 2004	:	
Docket No. 11104		

This is a decision on the petition under 37 CFR 1.181, filed June 11, 2010 and supplemented on June 14, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to properly reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed October 5, 2009, which set a one (1) month shortened statutory period for reply. A reply was received on October 13, 2009 but it did not constitute a proper reply, or a bona fide attempt at a proper reply. Accordingly, the application became abandoned on November 14, 2009. A Notice of Abandonment was mailed June 7, 2010.

Petitioner asserts that a response was timely filed and thus, the Notice of Abandonment should be withdrawn.

37 CFR 1.135(c) states:

> When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

MPEP 714.03 states in relevant part:

> An examiner may treat an amendment not fully responsive to a non-final Office action by:
> (A) accepting the amendment as an adequate reply to the non-final Office action to avoid abandonment under 35 U.S.C. 133 and 37 CFR 1.135;
> (B) notifying the applicant that the reply must be completed within the remaining period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)) to avoid abandonment; or
> (C) setting a new time period for applicant to complete the reply pursuant to 37 CFR 1.135(c).

And further states:

> The practice set forth in 37 CFR 1.135(c) does not apply where there has been a deliberate omission of some necessary part of a complete reply; rather, 37 CFR 1.135(c) is applicable only when the missing matter or lack of compliance is considered by the examiner as being "inadvertently omitted." For example, if an election of species has been required and applicant does not make an election because he or she believes the requirement to be improper, the amendment on its face is not a "bona fide attempt to advance the application to final action" (37 CFR 1.135(c)), and the examiner is without authority to postpone decision as to abandonment. Similarly, an amendment that would cancel all of the claims in an application and does not present any new or substitute claims is not a bona fide attempt to advance the application to final action. The Office will not enter such an amendment. See Exxon Corp. v. Phillips Petroleum Co., 265 F.3d 1249, 60 USPQ2d 1368 (Fed. Cir. 2001). If there is time remaining to reply to the non-final Office action (or within any extension of time pursuant to 37 CFR 1.136(a)), applicant will be notified to complete the reply within the remaining time period to avoid abandonment. **Likewise, once an inadvertent omission is brought to the attention of the applicant, the question of inadvertence no longer exists. Therefore, a second Office action giving another new (1 month) time period to supply the omission would not be appropriate under 37 CFR 1.135(c). [Emphasis added].**

In view of the above, petitioners' failure to file a proper reply to the Notice mailed October 5, 2009 properly resulted in abandonment of the above-identified application. Accordingly, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

The centralized facsimile number is **(571) 273-8300.**

General inquiries relating to this decision should be directed to Robert DeWitty (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

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

MAILED
MAY 13 2011
OFFICE OF PETITIONS

Mr. Alfred B. Levine
9005 Seven Locks Road
Bethesda, Maryland 20817

In re Application of Alfred B. LEVINE Application No. 10/986,927 Filed: 15 November 2004 Docket No. 11104	: : DECISION GRANTING PETITION : UNDER 37 CFR 1.137 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2011, to revive the above-identified application.

The petition is **GRANT.**

This application was held abandoned for failure to properly reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed October 5, 2009, which set a one (1) month shortened statutory period for reply. A reply was received on October 13, 2009 but it did not constitute a proper reply, or a bona fide attempt at a proper reply. Accordingly, the application became abandoned on November 14, 2009. A Notice of Abandonment was mailed June 7, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Notice mailed October 5, 2009, a petition fee of $810 (small entity), and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

The application file will be referred to Technology Center Art Unit 2629 for further action on the filed Response.

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

Fox Rothschild, LLP
Blue Bell
997 Lenox Drive
Building 3
Lawrenceville, NJ 08648-2311

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Charles Moncavage	:	
Application No. 10/986,949	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW FROM
Attorney Docket No. OVA-0002	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed March 31, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Anton P. Ness: (1) does not have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by

way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

Further, a review of the file record indicates that Anton P. Ness does not have power of attorney in this patent application, but has been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

Additionally, it is noted that practitioner has not certified that he has (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. *See USPTO Form No. PTO/SB/83*[1].

All future communications from the Office will continue to be directed to the above listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: DEK International GmbH c/o
Renner, Otto, Boiselle, Esklar, LLP
1621 Euclid Avenue, 5th Floor
Cleveland, OH 44115

[1] Petitioner should note USPTO Form Number PTO/SB/83 requires practitioner to "check each box below that is factually correct" and Warns that "If a box is left unchecked, the request will likely not be approved". (*See USPTO Form No. PTO/SB/83*).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 29, 2011

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No. 10/986976 patent No.:7831869 B2
C of C mailroom date:--04-15-11

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SCOTT BADERMAN
~~SUPERVISORY PATENT EXAMINER~~
SPE

2112
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

OCT 07 2010

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK NY 10019

In re Patent No. 7,583,954	: DECISION ON REQUEST FOR
INAGAKI	: RECONSIDERATION OF
Issue Date: September 1, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/986,992	:
Filed: November 15, 2004	:
Attorney Docket No.Y2238.0065	:

This is a decision on the petition filed on May 19, 2010, which is being treated as a renewed 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 seven hundred and thirty-one (731) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given TWO (2) MONTHS from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On September 1, 2009, the above-identified application matured into U.S. Patent No. 7,583,954, with a revised patent term of 539 days. By the instant petition, patentees assert that the patent term should be adjusted by 656 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). It is noted that patentees failed to account for the filing of the notice of appeal on November 26, 2007. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 200 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, November 26, 2007, and ending on the non-final Office action was mailed, June 12, 2008. Thus, the B delay is 456 days (656 – 200). Accordingly, the patent term adjustment is 539 days (156 days of A delay + 456 days of B delay – 10 days of overlap[1] - 63 days of applicant delay).

[1] The period of overlap between the "A" delay and the "B" delay is 10 days, not 18 days as patentees calculate. It is noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the period of "A" delay that overlaps the period of "B" delay began June 2, 2008, and ended June 12, 2008—a total of 10 days. It is noted that the period of overlap did not begin until June 2, 2008, because the relevant period for overlap consideration is moved forward by 200 days-- from November 15, 2007, to June 2, 2008—to account for the appeal period for which an adjustment to the patent term was already made.

In view thereof, the patent term adjustment of 539 days indicated in the patent is correct.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office is in receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 08/05/2010

Applicant	: Mauro Rudi Casanova	: DECISION ON REQUEST FOR
Patent Number	: 7660526	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/987,181	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1006** 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

DATE : 08-09-11

TO SPE OF : ART UNIT 2462

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/987218 Patent No.: 7924731

CofC mailroom date: 08-25-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE /Seema S. Rao/ **Art Unit** 2462

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. 7107993
Issue Date: September 19,2006
Application No. 10987225
Filed: November 12,2004
Attorney Docket No. D-145

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 4,2010 ,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 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Knudson et al.	:	
Application No. 10/987,369	:	ON APPLICATION FOR
Filed: November 12, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 14283.8US01	:	

This is in response to the Request for Reconsideration of the Patent Term Adjustment under 37 C.F.R. § 1.705 filed August 12, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is two hundred sixty-three (263) days, not one hundred ninety-one (191) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
FEB 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Saurabh CHHEDA, et *al.*	:	
Application No. 10/987,374	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **14251-005001**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 17, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 16, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2435 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,883,703	: DECISION ON
Weiner, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/987,380	: of PATENT TERM ADJUSTMENT
Issue Date: February 8, 2011	:
Filed: November 12, 2004	:
Attorney Docket No. 10286-0019001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed April 5, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand two hundred twenty-one (1221) days to one thousand two hundred seventy-five (1275) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

On February 8, 2011, the instant application matured into U.S. Patent No. 7,883,703 with a patent term adjustment of one thousand two hundred twenty-one (1221) days. The Office determined a patent term adjustment of 1221 days based upon 854 days of Office delay pursuant to 37 CFR 1.703(a)(1), and 769 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 217 days of Applicant delay pursuant to 37 CFR 1.704(b) and 37 CFR 1.704(c)(8).

Patentees argue that even though they filed an RCE on December 21, 2009 (and again on December 8, 2010), they should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on December 17, 2010 until the issue date of the patent. In other words, Patentees argue that no continued examination took place during this time period, and the Office should be accorded 823 days of delay pursuant to 37 CFR 1.703(b), not 769 days. Patentees' argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
>
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 769 days based on the application having been filed under 35 U.S.C. 111(a) on November 12, 2004 and a request for continued examination under 132(b) having been filed on December 21, 2009. In other words, the 54 day period beginning on the date of mailing of the notice of allowance to the

date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that 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

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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.

requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, (580 F. Supp. 2d 138), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the

application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)2. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

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

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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.

Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures3 permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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

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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.

not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on December 21, 2009, and the patent issued by virtue of that request on February 8, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on December 21, 2009 and ending on February 8, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1,221 days indicated on the patent is correct.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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In re Patent No. 7,883,703	: DECISION ON
Weiner, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/987,380	: of PATENT TERM ADJUSTMENT
Issue Date: February 8, 2011	:
Filed: November 12, 2004	:
Attorney Docket No. 10286-0019001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed August 25, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand two hundred twenty-one (1221) days to one thousand two hundred seventy-five (1275) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DENIED.** This decision is a final agency action within the meaning of 5 U.S.C. §704 for purposes of seeking judicial review. *See* MPEP 1002.02.

On February 8, 2011, the instant application matured into U.S. Patent No. 7,883,703 with a patent term adjustment of one thousand two hundred twenty-one (1221) days. The Office determined a patent term adjustment of 1221 days based upon 854 days of Office delay pursuant to 37 CFR 1.703(a)(1), and 769 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 217 days of Applicant delay pursuant to 37 CFR 1.704(b) and 37 CFR 1.704(c)(8).

Patentees argue that even though they filed an RCE on December 21, 2009 (and again on December 8, 2010), they should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on December 17, 2010 until the issue date of the patent. In other words, Patentees argue that no continued examination took place during this time period, and the Office should be accorded 823 days of delay pursuant to 37 CFR 1.703(b), not 769 days. Patentees' argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
>
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 769 days based on the application having been filed under 35 U.S.C. 111(a) on November 12, 2004 and a

request for continued examination under 132(b) having been filed on December 21, 2009. In other words, the 54 day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that 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).

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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.

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), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii).[2] Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at

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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.

the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or

withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on December 21, 2009, and the patent issued by virtue of that request on February 8, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on December 21, 2009 and ending on February 8, 2011 is not included in calculating Office delay.

CONCLUSION

The prior decision has been reconsidered. However, for the reasons stated above, it is concluded that the patent term adjustment of 1,221 days indicated on the patent is correct.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

---

[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.

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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Patent No. 7,883,703	:	
Weiner, et al.	:	FINAL AGENCY DECISION
Application No. 10/987,380	:	ON REQUEST TO INVOKE THE
Issue Date: February 8, 2011	:	SUPERVISORY AUTHORITY
Filed: November 12, 2004	:	OF THE DIRECTOR
Attorney Docket No. 10286-019001	:	

This is a decision on the petition captioned "PETITION UNDER 37 C.F.R. § 181(a)(3) TO INVOKE THE SUPERVISORY AUTHORITY OF THE DIRECTOR", filed Wednesday, November 9, 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 thousand two hundred twenty-one (1221) days of patent term adjustment ("PTA"). Patentee requests that the Director review the decision and modify the PTA calculation to one thousand two hundred (1275) 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 1221 days, as indicated in the final agency action of September 13, 2011.

Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL W. ALFORD
51265 BRADFORD LANE
LORANGER LA 70446

MAILED

APR 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Alford, Paul W.	:	
Application No. 10/987,383	:	ON PETITION
Filed: November 12, 2004	:	
Title: System and Method for Dewatering Sludge, Slurry or Sediment	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 7, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 7, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 8, 2008. A Notice of Abandonment was mailed on January 14, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The Amendment submitted to the Examiner on December 7, 2010 failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/987,383	Applicant(s) ALFORD, PAUL W.	
	Examiner /Robert James Popovics/	Art Unit 1776	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 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 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: ***Insertion of "collapsible" into claims 1 and 33 creates new combinations of limitations never before considered, and thus, raises new issues requiring additional consideration and/or searching, as does the recitation added to the end of claims 1,19,33 which additionally raises the issue of new matter.*** (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-6,10,12,13,16,18-24,27,30,32-37,41,43,44,47, and 49-51*.
   Claim(s) withdrawn from consideration: *7-9,11,14,15,17,25,26,28,29,31,38-40,42,45,46 and 48*.

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: _____.

/Robert James Popovics/
Primary Examiner
Art Unit: 1776

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DONALD J. ERSLER, S.C.
725 GARVENS AVENUE
BROOKFIELD WI 53005

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Alford, Paul W.	:	
Application No. 10/987,383	:	ON PETITION
Filed: November 12, 2004	:	
Title: System and Method For Dewatering Sludge, Slurry or Sediment	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 7, 2008. 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 8, 2008. A Notice of Abandonment was mailed January 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This application is being referred to Technology Center AU 1797 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of :
Moloney et al. :
Application No. 10/987,454 : ON PETITION
Filed: November 15, 2004 :
Attorney Docket No. :
034547-0110

This is a decision in reference to the petitions under 37 CFR 1.47(a), 1.48(a)(1), and 1.182, filed on June 28, 2010, which are treated as (a) a petition under 37 CFR 1.48(a)(1) requesting persons be added as named inventors, (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that a named inventor execute a supplemental declaration, and (c) a petition under 37 CFR 1.182 requesting expedited consideration of the above-referenced petitions under 37 CFR 1.183 and 1.48(a)(1). Receipt is also acknowledged of the supplement to the petition filed on July 28, 2010.

The petitions are **GRANTED**.

On November 15, 2004, the above-identified application was filed, with out an executed oath or declaration. On April 15, 2005, a declaration under 37 CFR 1.63 was filed, naming Maurice M. Moloney, and Alexandra Reid as joint inventors.

On June 28, 2010, the subject petitions were filed. Petitioners request that Joseph G. Boothe and Cory Lee Nykiforuk be added as joint inventors. Further, petitioners assert that inventor Moloney has refused to sign the supplemental declaration naming Boothe and Nykiforuk as joint inventors.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioners have provided statements of lack of deceptive intent signed by each of the persons sought to be added as an inventor, as well as an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. Written consent of the assignee has also been provided, along with processing fee set forth in 37 CFR 1.17(i).

As such, the petition under 37 CFR 1.48 is granted. The named inventive entity is amended by the addition of Cory Lee Nykiforuk and Joseph G. Boothe as named inventors.

Petition Under 37 CFR 1.183 to waive 1.64.

Petitioners assert that inventor Maurice Moloney has refused to sign the declaration naming him and Alexandra Reid, Cory Lee Nykiforuk, and Joseph G. Boothe as joint inventors.

There is no requirement for a showing under 37 CFR 1.47 with regard to joint inventor Moloney. As noted above, this application bears an original Declaration executed by joint inventors Moloney, and thus, the provisions of 37 CFR 1.47 do not apply with regard to his signature. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

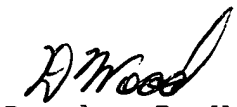
In view of the efforts recounted in the petition to obtain the signature of Maurice Moloney, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration naming him and Alexandra Reid, Cory Lee Nykiforuk, and Joseph G. Boothe as the inventive entity.

The inventorship will be as stated in the corrected Filing Receipt mailed on July 16, 2010.

The fee for a petition under 37 CFR 1.183 is $400.00. On June 28, 2010, $200.00 was submitted for the petition under 37 CFR 1.47. The balance due of $200.00 will be charged to counsel's deposit account as authorized in the PTOL-85(b) Fee(s) Transmittal filed on June 28, 2010 with the subject petitions.

The application is referred to Technology Center Art Unit 1638 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

MAILED

NOV 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,695,281 :
Issued: April 13, 2010 :
Application No. 10/987,492 : ON PETITION
Filed: November 12, 2004 :
Attorney Docket Number: 60045US002 :

This is a decision on the petition, filed October 31, 2011, under 37 CFR 3.81(b)[1] to correct the assignee information on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignee information is 3M ESPE AG and that the PTOL-85(b) inadvertently listed the assignee information incorrectly. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee information on the front page of the Letters Patent.

In view thereof, and since Office assignment records reflect that 3M ESPE AG is the assignee of record, the request complies with the provisions of 37 CFR 3.81(b) and it is therefore appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

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ZOLLINGER & BURLESON, LTD.
P.O. BOX 2368
NORTH CANTON OH 44720

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FEB 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,293,527	:	
Issued: November 13, 2007	:	
Application No. 10/987,696	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. LS003C0FUSA	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 29, 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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AUG 02 2010

OFFICE OF PETITIONS

ALEXANDER R. PAGANO, ESQ.
440 SPEEDWELL AVENUE
MORRIS PLAINS, NJ 07950

In re Application of Avinash Uttamrao Kulkarni Application No. 10/987,899 Filed: November 12, 2004 Attorney Docket No. 1123-164	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Alexander R. Pagano on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

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: MR. AVI KULKARNI
PAN HEALTH, INC
36 ROUTE 10 WEST
EAST HANOVER, NJ 07936

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/987,899	11/12/2004	Avinash Uttamrao Kulkarni	1123-164

CONFIRMATION NO. 3115

POWER OF ATTORNEY NOTICE

Alexander R. Pagano, Esq.
440 Speedwell Avenue
Morris Plains, NJ 07950

OC000000042853733

Date Mailed: 08/02/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NAREN CHAGANTI
713 THE HAMPTONS LANE
TOWN & COUNTRY MO 63017

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Application of :
Chaganti, et al. :
Application No. 10/987,917 : ON PETITION
Filed: November 12, 2004 :
Attorney Docket No. PSCO-006 :
For: ONLINE REPOSITORY FOR
PERSONAL INFORMATION

This is a decision on the reconsideration petition under 37 CFR 1.181 to withdraw the holding of abandonment, the petition to revive under 37 CFR 1.137(b), and the constructive petition under 37 CFR 1.705(b). The petitions were filed in the same paper on June 28, 2010.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.705(b) is **DISMISSED AS PREMATURE**.

A Notice of Noncompliant Amendment was mailed on May 30, 2007, which set an extendable one (1) month or thirty day period (whichever is longer) for reply. Applicants mailed an amendment with a certificate of mailing dated June 15, 2007 affixed thereto to the Office. The June 15, 2007 amendment appears to have been lost. On October 12, 2007, applicants transmitted via facsimile a copy of the June 15, 2007 amendment to the Office. Petitioners request that the Office construe the October 12, 2007 facsimile as being filed on June 15, 2007 and request relief from any abandonment.

Applicants may not rely on their certificate of mailing dated June 15, 2007 because the certificate of mailing does not comply with 37 CFR 1.8. Therefore, a reply to the May 30, 2007 Notice of Noncompliant Amendment was not timely filed and the application became abandoned on July 1, 2007.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely filed if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed

to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The correspondence in question does not bear a proper certificate of mailing in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. The certificate of mailing does not specify *how* the correspondence was conveyed to the Office. The certificate of mailing does not specify that the correspondence was deposited with the U.S. Postal Service with sufficient postage as first class mail.

The benefits of 37 CFR 1.8 apply only to documents delivered to the Office by the U.S. Postal Service. The June 15, 2007 correspondence could have been delivered to the Office via commercial couriers, e.g., "Federal Express," "DHL," "Purolator," "Air Borne," "UPS." As stated in the previous decisions of August 13, 2009 and January 19, 2010, the certificate of mailing does not specify ***how*** the correspondence was conveyed to the Office. Therefore, petitioners may not rely on Rule 1.8 to make the correspondence timely filed.

37 CFR 1.8(b) (for non-non-received correspondence) does not apply because 37 CFR 1.8(a) was not satisfied.

The October 12, 2007 facsimile was filed after the application was abandoned. The request to withdraw the holding of abandonment is **dismissed**.

The Office properly reversed the December 5, 2007 decision on petition because it was improperly decided. Any argument about the prejudicial nature of the delay in reversing the December 5, 2007 decision on August 13, 2009 is premature, as the application has not been allowed.

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).

37 C.F.R. § 1.705 sets forth, *in pertinent part*:

> (a) The notice of allowance will include notification of any patent term adjustment under 35 U.S.C. 154(b).
> (b) Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance

Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

As noted above, the application has not been allowed. Therefore, the patent term adjustment petition under 37 CFR 1.705(b) is **dismissed as premature**.

Turning to the petition under 37 CFR 1.137(b): Applicants have submitted an amendment in reply to the May 30, 2007 Notice, an acceptable statement of the unintentional nature of the delay in responding to the May 30, 2007 Notice, and the $810.00 petition fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioners request waiver of the revival fee. However, petitioners have not submitted the required $400.00 fee associated with filing a petition under 37 CFR 1.183 to waive the rules. Petitioners are **not** encouraged to pursue the waiver petition.

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. MPEP 711.03(c)(III)(B).

After the mailing of this decision the application will be forwarded to Technology Center AU 2161 for consideration of the amendment filed on December 21, 2007.

Telephone inquiries 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

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.
10/987,917	11/12/2004	Naren Chaganti	PSCO-006	1298

24490 7590 05/19/2011
NAREN CHAGANTI
713 THE HAMPTONS LANE
TOWN & COUNTRY, MO 63017

EXAMINER
STACE, BRENT S

ART UNIT	PAPER NUMBER
2161	

NOTIFICATION DATE	DELIVERY MODE
05/19/2011	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):

naren@chaganti.com
naren.chaganti@gmail.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.go

Naren Chaganti
713 The Hamptons Lane
Town & Country, MO 63017

In re Application of:
Naren CHAGANTI, et al
Application No. 10/987,917
Filed: November 12, 2004
For: ONLINE REPOSITORY FOR PERSONAL INFORMATION

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition, filed on 31 January 2011, under 37 CFR § 1.181 to require the Examiner to withdraw the Final Office Action mailed 03 December 2010.

The petition is **DISMISSED AS MOOT**.

A review of the application file record indicates that a Request for Continued Examination (RCE) with the required fee was filed on 03 March 2011 and was accepted and processed.

37 C.F.R. § 1.114(d) states, in part:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

Pursuant to 37 C.F.R. § 1.114(d), the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RECEIVED
OCT 12 2010
OFFICE OF PETITIONS

NAREN CHAGANTI
713 THE HAMPTONS LANE
TOWN & COUNTRY MO 63017

In re Application of	:	
Naren CHAGANTI, et al	:	
Application No. 10/988,105	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. PSCO-010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 30, 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 1, 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(s) (1) and (3).

With respect to item (1): Although the instant petition was accompanied by the required reply, the Amendment filed August 29, 2010, is lacking the required signature and cannot be accepted as being in compliance with 37 CFR 1.137(b).

With respect to item (3): The statement of unintentional delay, filed August 29, 2009, cannot be considered proper, since it does not contain the required signature.

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

NAREN CHAGANTI
713 THE HAMPTONS LANE
TOWN & COUNTRY MO 63017

MAILED
NOV 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Naren CHAGANTI	:	
Application No. 10/988,105	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Docket No. PSCO-010	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 30, 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 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3694 for appropriate action by the Examiner in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MCCARTER & ENGLISH, LLP/ABBOTT LABORATORIES LTD.
265 FRANKLIN STREET
BOSTON MA 02110

MAILED
OCT 26 2010
OFFICE OF PETITIONS

In re Application of	:	
Tario Ghayur et al	:	
Application No. 10/988,360	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 117813-08503	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 25, 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 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) 272-3208.

This application is being referred to Technology Center AU 1646 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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McCarter & English, LLP / Abbott
Laboratories Ltd.
265 Franklin Street
Boston MA 02110

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Ghayur et al.	:	ON REQUEST FOR
Application No. 10/988360	:	RECONSIDERATION OF
Filing or 371(c) Date: 11/12/2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
117813-08503	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO37 C.F.R. § 1.705(b), filed April 4, 2011. Applicant requests an adjustment of the patent term to 520 days, not 92 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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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.

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)
7,035,704	2006-04-25	10/988,527	2004-11-16	LKSP0116USA

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7035704
Issue Date: April 25,2006
Application No. 10988527
Filed: November 16,2004
Attorney Docket No. 0941-1067PUS1

:
: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

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MAILED
SEP 24 2010
OFFICE OF PETITIONS

PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK NY 10036

In re Patent No. 7,585,283	:
Issued: September 8, 2009	: LETTER REGARDING
Application No. 10/988,614	: PATENT TERM ADJUSTMENT
Filed: November 16, 2004	:
Attorney Docket No. P-4370-USI	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed on May 21, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1230 days to 1360 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 729 days and the "B" delay period, the over three year period begins on November 16, 2004 and ends on September 8, 2009, the day the patent was issued. However, a period of overlap begins on November 16, 2007 and ends on January 5, 2008, the period of overlap is 60 days, and therefore, considering the 60 days of overlap, the "B" delay is 662 days.

Additionally, on July 28, 2008 with a one month extension of time, Applicants filed a response to the non-final Office action mailed March 27, 2008. Then on October 6, 2008, applicants filed a Supplemental Response. 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.

Applicants dispute the reduction of 70 days for the filing of the Information Disclosure Statement (IDS) filed October 6, 2008.

Applicant's arguments have been considered, but not found to be persuasive. Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

The record does not support a conclusion that the IDS was requested by the examiner nor did the IDS include a 1.704(d) statement. Accordingly, the filing of the IDS as a supplemental response on October 6, 2008 may be considered a failure to engage and a proper basis for reduction.

As such, the patent term adjustment is 1230 days (729 plus 662 minus 60 overlap minus101 applicant delay), not 1360 days.

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 decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/10/11

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction for Appl. No.: 10988745 Patent No.: 7241361

CofC mailroom date: 6/01/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Note:

Drawings

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: _____

_____

_____

_____

_____

2881

SPE Art Unit

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,167,699	2007-01-23	10988863	2004-11-15	QUAMT-001A

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	/Steve Ivester/	Date (YYYY-MM-DD)	2011-06-01
Name	Steve Ivester, Secretary, Syncpointe, LLC		
Enter Reel and Frame Number		Remove	
Reel Number	022102	Frame Number	0589
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. 7167699
Issue Date: January 23,2007
Application No. 10988863
Filed: November 15,2004
Attorney Docket No. MIN 9270

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 1,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 1,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

11/10/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-29-10

TO SPE OF : ART UNIT 2114

SUBJECT : Request for Certificate of Correction for Appl. No.: 10988935 Patent No.: 7779293

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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SCOTT BADERMAN
~~SUPERVISORY PATENT EXAMINER~~
SPE

2114
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.
10/989,116	11/15/2004	Stephen A. Marsh	2226.2002-005	9532

21005 7590 11/05/2010
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER
MERKLING, MATTHEW J

ART UNIT	PAPER NUMBER
1723	

MAIL DATE	DELIVERY MODE
11/05/2010	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

NOV 05 2010

Mailed :
In re Application of : DECISION ON
Marsh et al. : PETITION
Serial No. 10/989,116 :
Filed: November 15, 2004 :
For: SELF-REGULATING GAS GENERATOR
AND METHOD

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on August 18, 2010.

The Examiner required a restriction between Group I, claims 1-20, 22-31, 37, 42-45, 57-62 and110, drawn to an apparatus, classified in class 422, subclass 238 and Group II, claims 63-75, 77-80, 86, 90-93 and 104-109, drawn to a method, classified in class 423, subclass 657. Applicants amended claim 63 to include similar elements as Claim 1 and traversed the restriction without election. Applicants did not make an election in their response but did set forth arguments about the restriction.

The Examiner then required a Restriction requirement between Inventions I and II and added a species restriction to claims 58-62. The Examiner identified claims 58 and 60 to be classified in class 48, subclass 61; claim 62 classified in class 128, subclass 200.24; claim 61 classified in class 431, subclass 1 and claim 60 classified in class 429, sub class12. The Examiner found claim 1 to be generic. In their response Applicants elected claim 58 and did not amend any claims.

In response to Applicants reply, the Examiner maintained the Restriction requirement and set forth an additional new Restriction which included a new species restriction. The Examiner found claim 1 to be generic to 7 different Groups (A-G). Applicants' response to this requirement was found to not be fully responsive and non-compliant because Applicants did not elect a species. Applicant elected species A1; however other species must be elected as well. Applicant must select a species from Groups A1, A2 or A3 and B1, B2 or B3 and C1 or C2 and D1, D2, D3 or D4 and E1 or E2 and F1 or F2 and G1 or G2.

In response to the notice of non-compliance mailed April 8, 2009, Applicants elected subspecies B1, C1, D1, E2, F1 and G1.

Applicants assert that Inventions I and II and not the subspecies, should be prosecuted together. That the Restriction Requirement is improper and therefore, the restriction of the species claims is improper, Applicants assert submit that the Examiner has failed to establish a serious burden if restriction is not required.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § *>806.06<, § 808.01) or distinct as claimed (see MPEP § 806.05 - § *>806.05(j)<); and

(B) There would be a serious burden on the examiner if restriction is >not< required (see MPEP § 803.02, **> § 808<, and § 808.02).

For purposes of the initial requirement, a serious burden on the Examiner may be *prima facie* shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02. That *prima facie* showing may be rebutted by appropriate showings or evidence by the applicant.

The Examiner did show separate classification between Group I, claims 1-20, 22-31, 37, 42-45, 57-62 and 110, drawn to an apparatus, classified in class 422, subclass 238 and Group II, claims 63-75, 77-80, 86, 90-93 and 104-109, drawn to a method, classified in class 423, subclass 657. Applicants have not rebutted by appropriate showings or evidence.

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process *as claimed* can be practiced by another materially different apparatus or by hand; or (B) that the apparatus *as claimed* can be used to practice another materially different process. The burden is on the examiner to provide reasonable examples that recite material differences. The Examiner asserts that the process as claimed can be practiced by another and materially different apparatus such as one in which the at least one element is not close to passage of the chemical supply, or one in which the at least one element does not interact with the chemical supply

If Applicant proves or provides convincing argument that there is no material difference or that a process cannot be performed by hand (if examiner so argued), the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement. Applicants submit that the Examiners arguments fail to appreciate the amendment to claim 63, previously presented in Applicants' filed response on December 23, 2009. Applicants amended claim 63 to recite the "at least one element closed to passage of the chemical supply".

In response to Applicant's amendment, the Examiner on December 23, 2009 set forth that the apparatus as claimed can be used to practice another and materially different process such as one in which a portion of the chemical supply also passes from the chemical supply chamber to the gas storage chamber along with the generated gas. Applicant asserts that arguing that a "portion of the chemical supply also passes from the chemical supply chamber" conflicts with the plain meaning of the claim. Pending claims must be "given their broadest reasonable interpretation consistent with the specification. The position set forth by the Examiner is reasonable.

DECISION

10/989,116
The petition is **DENIED.**

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

Mark B. Solomon
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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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MAILED

FEB 04 2011

OFFICE OF PETITIONS

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Patent No. 7,015,717
Issue Date: March 21, 2006
Application No. 10/989,279
Filed: November 17, 2004
Attorney Docket No. 500.33011CC12

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed September 2, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to correct a claim for priority under 35 U.S.C. § 120 by way of a certificate of correction.

The petition is **granted**.

The instant application was filed November 17, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

The Office is in receipt of the $1,410 surcharge as well as the $100 certificate of correction fee.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Chris Bottorff
Supervisor
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
10/989,279	11/17/2004	2819	3388	500.33011CC12	133	6

CONFIRMATION NO. 5319

CORRECTED FILING RECEIPT

20457
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

OC000000045806984

Date Mailed: 02/02/2011

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)

Toshitsugu Takekuma, Ebina-shi, JAPAN;
Ryoichi Kurihara, Hadano-shi, JAPAN;
Akira Yamagiwa, Hadano-shi, JAPAN;

Power of Attorney:

David Terry--20178
Donald Antonelli--20296
Melvin Kraus--22466
James Dresser--22973
Donald Stout--26422
Gregory Montone--28141
William Solomon--28565
Ronald Shore--28577
Alan Schiavelli--32087

Domestic Priority data as claimed by applicant

This application is a CON of 10/241,477 09/12/2002 PAT 6,873,179
which is a CON of 10/194,310 07/15/2002 PAT 7,372,292
which is a CON of 09/891,322 06/27/2001 PAT 6,420,900
which is a CON of 09/716,251 11/21/2000 PAT 6,441,639
which is a CON of 09/084,017 05/26/1998 PAT 6,172,517
which is a CON of 08/773,753 12/24/1996 PAT 5,818,253
which is a CON of 08/596,724 02/05/1996 PAT 5,627,481
which is a CON of 08/269,352 06/30/1994 PAT 5,548,226

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
JAPAN 05-334631 12/28/1993
JAPAN 5-334631 12/28/1993

If Required, Foreign Filing License Granted: 01/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/989,279**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

SIGNAL TRANSMITTING DEVICE SUITED TO FAST SIGNAL TRANSMISSION

Preliminary Class

326

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,107,823	2006-09-19	10/989,742	2004-11-17	7607.110

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	/Joseph W. Berenato/	Date (YYYY-MM-DD)	2010-11-05
Name	Joseph W. Berenato	Registration Number	30546

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. 7107823
Issue Date: September 19,2006
Application No. 10989742
Filed: November 17,2004
Attorney Docket No. 7607.110

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 5,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 5,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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MCCARTER & ENGLISH, LLP BOSTON
265 FRANKLIN STREET
BOSTON MA 02110

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Findeis, et al.	:	
Application No. 10/989,763	:	ON REQUEST FOR
Filed: November 15, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 11726-06804	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 18, 2010. Applicants believe that they should be accorded an additional PTA of 662 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 at the time of the mailing of the Notice of Allowance is **zero (0) days** (0 days of PTO delay, reduced by 358 days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 50-4876, 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

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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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 19 2011

OFFICE OF PETITIONS

MCCARTER & ENGLISH LLP BOSTON
265 FRANKLIN STREET
BOSTON MA 02110

In re	: DECISION ON APPLICATION
Findeis, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/989,763	: AND NOTICE OF INTENT
Filed: November 15, 2004	: TO ISSUE
Patent No. 7,803,774	: CERTIFICATE OF CORRECTION
Issued: September 28, 2010	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)", filed November 29, 2010. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred seventy (570) days to six hundred ninety (690) days.

The application for patent term adjustment is **GRANTED**.

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **six hundred ninety (690) days**.

On February 18, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the instant application. The Notice stated that the patent term adjustment (PTA) to date was zero (0) days. On May 18, 2010, Applicants filed an application for patent term adjustment. However, the application for patent term adjustment was dismissed as being premature in a decision mailed on August 16, 2010. On September 28, 2010, the application issued into Patent No. 7,803,774, with a patent term adjustment of five hundred seventy (570) days.

A review of the file reveals that Applicants were assessed delay of one hundred twenty (120) days for filing the application for patent term adjustment on May 18, 2010. Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, zero (0) days should have been assessed for this filing.

In view thereof, the correct determination of patent term adjustment is six hundred ninety (690) days (1048 days of PTO delay, reduced by 358 (29+61+31+92+87+58) days of applicant delay).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **six hundred ninety (690) days**.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,803,774 B2

DATED : **September 28, 2010**

INVENTOR(S) : Findeis 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 570 days.

Delete the phrase "by 570 days" and insert – by 690 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. 7144415
Issue Date: December 5,2006
Application No. 10989786
Filed: November 16,2004
Attorney Docket No. N1119

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 11,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7144415	2006-12-05	10989786	2004-11-16	10154-066US1

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	/Lawrence A. Aaronson/	Date (YYYY-MM-DD)	2011-11-11
Name	Lawrence A. Aaronson	Registration Number	38369

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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AUG 16 2010

OFFICE OF PETITIONS

DIANA HOUSTON
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS TN 38116

In re Application of	:	
McGinley, et al.	:	
Application No. 10/989,835	:	ON APPLICATION FOR
Filed: November 15, 2004	:	PATENT TERM ADJUSTMENT
Docket No. 50642/294963	:	

This is in response to the "RESPONSE TO DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) AND NOTIFICATION OF POSSIBLE ERROR IN CALCULATION," filed June 23, 2010. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. The request will be treated under 37 CFR 1.705(b).

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **four hundred fifty-eight (458) days**. A copy of the revised PALM screen, showing the correct determination, is enclosed.

On March 23, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 494 days. On June 23, 2010, applicants submitted the instant petition. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated. Applicants assert the Office failed to charge a reduction of 61 days for the January 2, 2008 response to the restriction requirement, mailed October 1, 2007 which set a response date to expire one month or thirty days from the mailing date whichever was longer.

Applicants are informed that the period set forth in an Office action is of no consequence in calculating patent term

adjustment. Applicants always have three months to file a response. Applicant delay is calculated based on taking in excess of three months to file a reply. As the January 2, 2008 response to the October 1, 2007 restriction requirement was filed three months and one day after the October 1, 2007 restriction requirement was mailed, applicants were properly charged a one (1) day reduction in patent term adjustment pursuant to 37 CFR 1.704(b).

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed enter a reduction for an Information Disclosure Statement filed on February 7, 2008. After applicants filed a reply on January 2, 2008 to the October 1, 2007 restriction requirement, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on February 7, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed February 7, 2008, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 36 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, January 3, 2008, and ending on the date that the IDS was filed, February 7, 2008. Accordingly, a period of reduction of 36 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **458 days** (634 days of Office delay - 176 days of applicant delay).

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[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The fee under 37 CFR 1.18(e) will be charged to deposit account no. 11-0855.

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 in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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 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 Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

CC: MICHAEL A. BERTELSON
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309-4530

Day : Saturday
Date: 8/14/2010

PALM INTRANET

Time: 13:23:05

PTA Calculations for Application: 10/989835			
Application Filing Date:	11/15/2004	PTO Delay (PTO):	634
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	140
Post-Issue Petitions:	0	Total PTA (days):	458
PTO Delay Adjustment:	-36		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
117	08/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		36	
98	03/23/2010	MAIL NOTICE OF ALLOWANCE			
97	03/19/2010	ISSUE REVISION COMPLETED			
96	03/19/2010	DOCUMENT VERIFICATION			
95	03/19/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
94	03/15/2010	NOTICE OF ALLOWABILITY			
93	02/26/2010	DATE FORWARDED TO EXAMINER			
92	02/01/2010	AMENDMENT AFTER FINAL REJECTION			
91	12/10/2009	MAIL FINAL REJECTION (PTOL - 326)	10		88
90	12/07/2009	FINAL REJECTION			
89	09/22/2009	DATE FORWARDED TO EXAMINER			
88	07/30/2009	RESPONSE AFTER NON-FINAL ACTION			
87	04/30/2009	MAIL NON-FINAL REJECTION			
86	04/27/2009	NON-FINAL REJECTION			
85	02/25/2009	DATE FORWARDED TO EXAMINER			
84	02/05/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
83	02/25/2009	DATE FORWARDED TO EXAMINER			
82	02/05/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
81	02/25/2009	DISPOSAL FOR A RCE / CPA / R129			
80	02/05/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
79	01/22/2009	MAIL ADVISORY ACTION (PTOL - 303)			
78	01/21/2009	ADVISORY ACTION (PTOL-303)			
77	01/15/2009	DATE FORWARDED TO EXAMINER			
76	01/08/2009	AMENDMENT AFTER FINAL REJECTION			

75	11/05/2008	REFERENCE CAPTURE ON IDS			
74	11/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		44	64
73	12/10/2008	MAIL FINAL REJECTION (PTOL - 326)			
72	12/08/2008	FINAL REJECTION			
71	05/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	07/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	11/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	11/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	07/15/2008	REFERENCE CAPTURE ON IDS			
66	07/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	10/17/2008	DATE FORWARDED TO EXAMINER			
64	09/22/2008	RESPONSE AFTER NON-FINAL ACTION		94	56
63	09/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	09/22/2008	NEW OR ADDITIONAL DRAWING FILED			
61	10/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
60	07/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	05/06/2008	REFERENCE CAPTURE ON IDS			
58	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	03/20/2008	MAIL NON-FINAL REJECTION			
55	03/17/2008	NON-FINAL REJECTION			
54	10/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	03/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	06/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	10/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	01/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

49	05/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	04/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	02/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	02/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	01/15/2008	DATE FORWARDED TO EXAMINER			
39	01/02/2008	RESPONSE TO ELECTION / RESTRICTION FILED		1	32
38	01/02/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
36	10/10/2007	REFERENCE CAPTURE ON IDS			
35	10/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	10/16/2007	FLAGGED FOR 5/25			
32	10/01/2007	MAIL RESTRICTION REQUIREMENT	624		-1
31	09/27/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
29	05/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	12/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	05/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24.7	04/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	04/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23.7	01/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	03/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	01/16/2007	REFERENCE CAPTURE ON IDS			
20.7	01/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/13/2006	REFERENCE CAPTURE ON IDS			
18.7	10/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

18	10/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/28/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	06/21/2006	REFERENCE CAPTURE ON IDS			
15.7	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/30/2006	REFERENCE CAPTURE ON IDS			
13.7	03/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	10/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/30/2005	APPLICATION RETURN FROM OIPE			
10	03/30/2005	APPLICATION RETURN TO OIPE			
9	03/30/2005	APPLICATION DISPATCHED FROM OIPE			
8	03/30/2005	APPLICATION IS NOW COMPLETE			
7	03/21/2005	ADDITIONAL APPLICATION FILING FEES		1	4
6	03/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	03/21/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
4	12/20/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/14/2004	CLEARED BY OIPE CSR			
2	11/30/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/15/2004	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/24/11

TO SPE OF : ART UNIT: 2629 Attn: Quan-Zhen Wang (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/989877_Patent No.: 7411582

C of C Mailroom date: 03/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

_____

/Quan-Zhen Wang/ — SPE

2629 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7075631
Issue Date: July 11,2006
Application No. 10989892
Filed: November 16,2004
Attorney Docket No. AFK 16809 US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Gregory & Martensen LLP
2018 Bissonnet Street
Houston TX 77005

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of :
Ji, et al. :
Application No. 10/989,998 :
Filed: November 15, 2004 :
Attorney Docket No. DOGO.P005C :
For: FAIL-SAFE UPGRADING OF PORTABLE ELECTRONIC DEVICE SOFTWARE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2010, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action, mailed March 2, 2010, which set an extendable three month period for reply. Accordingly, this application became abandoned on June 3, 2010. A Notice of Abandonment was mailed on September 28, 2010.

Applicants have submitted a RCE and required $810.00 fee and amendment in reply to the March 2, 2010 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 2, 2010 final Office action, and the $1,620.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2445 for consideration of the RCE and amendment filed on November 1, 2010.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
AUG 26 2011
OFFICE OF PETITIONS

PARFOMAK ANDREW N
NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE 8TH FLOOR
NEW YORK NY 10022

In re
Application No. 10/990,062
Filed: November 16, 2004
Patent No. 7,279,510
Issued: October 9, 2007
Attorney Docket No. 102792-1217 (2)

DECISION

This is a decision on "RESPONSE TO 'NOTICE OF NON-ACCEPTANCE OF PATENT MAINTENANCE FEE'", filed August 10, 2011, which is being treated as a fee deficiency submission under 37 CFR 1.28(c).

The fee deficiency submission under 37 CFR 1.28 of $490 for the first maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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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	:	
Manolito M. Catalasan	:	
Application No. 10/990,122	:	ON REQUEST FOR
Filed: November 15, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 15669US02	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 8, 2010. Applicant believes that he should be accorded an additional PTA of 418 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 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 **eighteen (18) days** (346 days of PTO delay, reduced by 328 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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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Manolito M. Catalasan	:	
Application No. 10/990,122	:	
Filed: November 15, 2004	:	
Patent No. 7,808,115	:	ON REQUEST FOR
Issued: October 5, 2010	:	RECONSIDERATION OF
Attorney Docket Number: 15669US02	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(d), filed November 15, 2010. Patentees believe that they should be accorded additional PTA of 1 day due to the Office not issuing the patent within three years.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment is **DISMISSED**.

On October 5, 2010, the instant application matured into U.S. Patent No. 7,808,115 with a patent term adjustment of 435 days. The Office determined a patent term adjustment of 434 days based upon 346 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 417 days pursuant to 37 CFR 1.703(b), reduced by 328 days of Applicant delay.

Patentees argues that the Office should have been assessed 418 days of delay pursuant to 37 CFR 1.703(b), not the 417 days presently accorded. Patentees' argument has been considered, but is not persuasive.

37 CFR 1.703(b)(1) sets forth, *in toto*:

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

It follows that the proper manner of calculating the RCE-cutoff is to terminate the over three year period on the day before the RCE was filed, since 37 CFR 1.703(b)(1) expressly states that the day on which the RCE was filed is not included in the over three year period.

Accordingly, at issuance, the Office properly entered 417 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, the correct number of days of patent term adjustment is **four hundred thirty-five (435)** days

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 10, 2009

TO SPE OF : ART UNIT 3775
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/990191/7507242
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. 120

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 changes appear to be typographical in nature and are approved.

/Nicholas Woodall/
Primary Examiner, Art Unit 3775

/Thomas C Barrett/ Digitally signed by /Thomas C Barrett/ DN: cn=/Thomas C Barrett/, c=US, ou=SPE AU:3775 Date: 2012.02.13 20:32:01 -05'00'
SPE

3775
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110217

DATE :

TO SPE OF : ART UNIT 1783

SUBJECT : Request for Certificate of Correction on Patent No.: 7531227

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:

Certificate of correction is not appropriate to correct a failure to submit the priority document. In such instances, it is necessary to file a reissue application. (See MPEP 201.16 which states "... a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR 1.55(a) are not met.")

/DAVID R SAMPLE/
Supervisory Patent Examiner.Art Unit 1783

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110217

DATE :

TO SPE OF : ART UNIT 1783

SUBJECT : Request for Certificate of Correction on Patent No.: 7531227 /10/990306

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:

Certificate of correction is not appropriate to correct a failure to submit the priority document. In such instances, it is necessary to file a reissue application. (See MPEP 201.16 which states "... a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR 1.55(a) are not met.")

/DAVID R SAMPLE/
Supervisory Patent Examiner.Art Unit 1783

NITED STATES 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 : March 1, 2011
Serial no. : 10/990306
Patent no. : 7,531,227 B2
Patent Issued : May 12, 2009
Inventor(s) : Martin Utz, et al.
Title : CARD SHEET CONSTRUCTION

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..

Certificate of correction is not appropriate to correct a failure to submit the priority document. In such instances, it is necessary to file a reissue application. (See MPEP 201.16 which states".. a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR 1.55(a) are not met.").

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

Avery Dennison Corporation
Law Department
150 North Orange Grove Blvd.
Pasadena, CA 91103

MD/mt

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P.O. Box 1450
Alexandria, VA 22313-1450
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ADLI LAW GROUP P.C.
633 WEST FIFTH STREET
SUITE 2600
LOS ANGELES, CA 90071

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of
Tetsuya Hidaka, et al.
Application No. 10/990,333
Filed: November 16, 2004
Attorney Docket No.: 1002.107

DECISION ON PETITION

This is a decision in response to the petition, filed November 11, 2010, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

This application was held abandoned for a failure to timely pay the issue and publication fees on or before September 7, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 4, 2010. A Notice of Abandonment was mailed on September 23, 2010.

Petitioner argues that the Notice dated June 4, 2010 was not received.

A review of the written record indicates an irregularity in the mailing of the Notice of June 4, 2010. In this regard, a proper Power of Attorney and a Change of Correspondence Address were filed on May 18, 2010, which is prior to the mailing of the Notice of June 4, 2010. Unfortunately, Office records were not updated to reflect the change of address. As the Notice was mailed to an incorrect address, the Notice of Abandonment mailed September 23, 2010 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 1793 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of June 4, 2010. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. **This period is not extendable under the provisions of 37 CFR 1.136.**

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : March 3, 2011

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/990472 patent no 7822017

CofC mailroom date: 2-9-11

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ✓ **Denied** — State the reasons for denial below.

Comments: The corrections will change the scope of the claims.

/Fan Tsang/ SPE Art Unit 2614

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gUNITED STATES 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 :March 7, 2011
Serial No. : 10/990472
Patent No. :7,822,017 B2
Patent Issued : October 26, 2010
Inventor(s) :Scott David D'Souza, et al.
Title : SECURE VOICE SIGNALING GATEWAY

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under the provisions of Rule 1.322.

The changes you requested would change the scope of the claims.

In view of the foregoing, your request is hereby denied.

Magdalene Talley
For Mary Francis Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
Fax 571-270-9942

Kramer & Amado
1725 Duke Street
Alexandria, VA 22314

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : March 3, 2011

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/990472 patent no 7822017

CofC mailroom date: 2-9-11

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Randolph Square – 9D10-A
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Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ✓ **Denied** — State the reasons for denial below.

Comments: The corrections will change the scope of the claims.

/Curtis Kuntz \ SPE ART UNIT 2614

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Date Mailed : March 7, 2011
Serial no. :10/990472
Patent no. : 7,822,017 B2
Patent Issued : October 26, 2010
Inventor(s) : Scott David D'Souza, et al.
Title :SECURE VOICE SIGNALING GATEWAY

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 allege errors(s) noted in your request, the corrections will change the scope of the claims.

In view of the foregoing your request is hereby denied.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Request for Reconsideration should be accompanied by additional support (e.g. copy of amendments, etc.) containing requested data or changes and/or brief statements of facts, as requested.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

Kramer & Amado
1725 Duke Street
Alexandria, VA 22314

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 07 2011

OFFICE OF PETITIONS

PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

In re Application of	:	
SWAILE, et al	:	
Application No. 10/990,592	:	DECISION ON PETITION
Filed: November 17, 2004	:	
Attorney Docket No. 9446	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) a statement of unintentional delay.

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

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)
7318476	2008-01-15	10990617	2004-11-16	PJC-04-01

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	/Richard A. Fagin/	Date (YYYY-MM-DD)	2012-02-13
Name	Richard A. Fagin	Registration Number	39182

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. 7318476
Issue Date: January 15,2008
Application No. 10990617
Filed: November 16,2004
Attorney Docket No. PJC-04-01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 14,2012 ,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 14,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
AUG 19 2010
OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Patent No. 7,619,956	:	DECISION ON REQUEST FOR
CHIN-YIN TSAI	:	RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/990,655	:	NOTICE OF INTENT TO ISSUE
Filed: November 17, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 32052-8614.US3	:	

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-nine (799) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **seven hundred ninety-nine (798) 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 November 18, 2007, and ends on July 1, 2009, the day before the RCE was filed, and is 227 (not 228) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 798, not 799 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a

certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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 **seven hundred ninety-nine (798) 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 : 7,619,956 B2

DATED : Nov. 17, 2009 **DRAFT**

INVENTOR(S) : TSAI

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 708 days

Delete the phrase "by 708 days" and insert – by 798 days--

Day : Wednesday

PALM INTRANET

Date: 8/18/2010
Time: 11:08:59

PTA Calculations for Application: 10/990655			
Application Filing Date:	11/17/2004	PTO Delay (PTO):	806
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	98
Post-Issue Petitions:	0	Total PTA (days):	798
PTO Delay Adjustment:	90		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	08/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	20		
102	08/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
97.5	10/28/2009	PTA 36 MONTHS			
97	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
96	09/10/2009	EXPORT TO FINAL DATA CAPTURE			
95	09/09/2009	DISPATCH TO FDC			
94	09/04/2009	RESPONSE TO REASONS FOR ALLOWANCE			
93	09/08/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
92	09/04/2009	ISSUE FEE PAYMENT VERIFIED			
91	09/04/2009	ISSUE FEE PAYMENT RECEIVED			
90	08/12/2009	MISCELLANEOUS INCOMING LETTER		98	
89	06/15/2009	EXPORT TO INITIAL DATA CAPTURE			
88	06/11/2009	MAIL NOTICE OF ALLOWANCE			
87	05/13/2009	ISSUE REVISION COMPLETED			
86	05/13/2009	DOCUMENT VERIFICATION			
85	05/13/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
84	05/08/2009	NOTICE OF ALLOWABILITY			
83	03/23/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
82	03/23/2009	REFERENCE CAPTURE ON IDS			
81	03/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	04/08/2009	DATE FORWARDED TO EXAMINER			
79	03/23/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

78	04/08/2009	DATE FORWARDED TO EXAMINER			
77	03/23/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
76	04/08/2009	DISPOSAL FOR A RCE / CPA / R129			
75	03/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	03/23/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
73	12/26/2008	EXPORT TO INITIAL DATA CAPTURE			
72	12/23/2008	MAIL NOTICE OF ALLOWANCE			
71	12/19/2008	ISSUE REVISION COMPLETED			
70	12/19/2008	DOCUMENT VERIFICATION			
69	12/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	12/18/2008	NOTICE OF ALLOWABILITY			
67	10/28/2008	DATE FORWARDED TO EXAMINER			
66	10/24/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
65	10/28/2008	DATE FORWARDED TO EXAMINER			
64	10/24/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
63	10/28/2008	DISPOSAL FOR A RCE / CPA / R129			
62	10/24/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
61	07/28/2008	EXPORT TO INITIAL DATA CAPTURE			
60	07/24/2008	MAIL EXAMINER'S AMENDMENT			
59	07/24/2008	MAIL NOTICE OF ALLOWANCE			
58	07/23/2008	ISSUE REVISION COMPLETED			
57	07/23/2008	DOCUMENT VERIFICATION			
56	07/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	07/21/2008	EXAMINER'S AMENDMENT COMMUNICATION			
54	07/21/2008	NOTICE OF ALLOWABILITY			
53	07/14/2008	DATE FORWARDED TO EXAMINER			
52	07/02/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
51	07/14/2008	DATE FORWARDED TO EXAMINER			
50	07/02/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
49	07/14/2008	DISPOSAL FOR A RCE / CPA / R129			
48	07/02/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			

47	05/01/2008	FINISHED INITIAL DATA CAPTURE			
46	04/23/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
45	04/22/2008	CORRESPONDENCE ADDRESS CHANGE			
44	04/07/2008	EXPORT TO INITIAL DATA CAPTURE			
43	04/02/2008	MAIL NOTICE OF ALLOWANCE	806		-1
42	04/01/2008	ISSUE REVISION COMPLETED			
41	04/01/2008	DOCUMENT VERIFICATION			
40	04/01/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	04/01/2008	CASE DOCKETED TO EXAMINER IN GAU			
38	03/29/2008	NOTICE OF ALLOWABILITY			
35	08/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	10/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	03/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	10/25/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
27	10/25/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
25	10/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	06/20/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	08/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/22/2006	REFERENCE CAPTURE ON IDS			
19.7	03/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	03/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	02/26/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	02/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	01/28/2005	APPLICATION RETURN FROM OIPE			
14	01/28/2005	APPLICATION IS NOW COMPLETE			
13	01/28/2005	APPLICATION RETURN TO OIPE			
12	01/28/2005	APPLICATION RETURN FROM OIPE			
11	01/28/2005	APPLICATION RETURN TO OIPE			

10	01/28/2005	APPLICATION RETURN FROM OIPE			
9	01/28/2005	APPLICATION IS NOW COMPLETE			
8	01/28/2005	APPLICATION RETURN TO OIPE			
7	01/28/2005	APPLICATION DISPATCHED FROM OIPE			
6	01/28/2005	APPLICATION IS NOW COMPLETE			
5	01/11/2005	CLEARED BY L&R (LARS)			
4	12/09/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	12/09/2004	CASE CLASSIFIED BY OIPE			
2	12/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/17/2004	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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Peter Kastel	:	DECISION ON PETITION
Application No. 10/990,751	:	TO WITHDRAW
Filed: November 18, 2004	:	FROM RECORD
Attorney Docket No. 741439-19	:	

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 29, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Nixon Peabody, LLP 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.

The request to change the correspondence address of record is not accepted in view of Nixon Peabody, LLP not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the address listed below until otherwise notified by applicant.

Currently, a Board of Patent Appeals and Interferences Docketing Notice was mailed August 19, 2010 in the above-identified application.

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

MAILED

OCT 06 2010

OFFICE OF PETITIONS

YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of	:	
Kulasooriya et al.	:	
Application No. 10/990,773	:	DECISION ON PETITION
Filed: November 16, 2004		TO WITHDRAW FROM RECORD
Attorney Docket No. 324212009900	:	
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Robert A. Saltzberg, on behalf of all attorneys of record who are associated with Customer Number 20872.

All attorneys/agents associated with the Customer Number 20872 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, a Notice of Allowance was mailed August 16, 2010 that requires a reply by November 16, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Yahoo! Inc.
701 First Avenue
Sunnyvale, CA 94089

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/06/11

TO SPE OF : ART UNIT: 2437 Attn: MOISE EMMANUEL L (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/990798 Patent No.: 7602910

CofC Mailroom date: 12/29/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: All changes apply (Approved)

/Emmanuel L Moise/ **2437**
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

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Dane et al,	:	
Patent Number: 7,718,921	:	DECISION ON REQUEST
Issue Date: 05/18/2010	:	FOR RECONSIDERATION OF
Application No. 10/990861	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/17/2004	:	
Attorney Docket Number: MICI 1007-1	:	

This is a decision on the petition filed on June 17, 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 seventeen (1117) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventeen (1117) days is **DISMISSED**.

Patentees provide that the correct period of patent term adjustment pursuant to 35 U.S.C. § 154(b)(1)(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), November 18, 2007, and ending on the date the patent issued, May 18, 2010, is 913 days. Patentees aver that this Office erred in applying 37 CFR 1.703(b)(4) in connection with the filing of Notices of Appeal on November 20, 2007, and March 5, 2009 respectively.

Patentees also asserts that the amount of non-overlapping Patent Office delay (adjustment) under 35 U.S.C. § 154(b)(1)(A) is 239 days.

As to the "B" delay, the period is 597 days, not 913 days. This period begins on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), and ends on May 18, 2010, and ends on the issue date of the patent, or 913 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 mail date of the non final Office actions. See, 35 U.S.C. § 154(b)(1)(B)(ii). Here, a Notice of Appeal was filed on November 20, 2007, and a non-final Office action was mailed May 29,

2008, or 191 days after the filing of the Notice of Appeal. A second Notice of Appeal was filed on March 5, 2009, and a non-final Office action was mailed July 8, 2009, or 125 days after the filing of the Notice of Appeal. Thus, the "B" delay period is 597 (913 days – 316 days), not 913 days[1].

As to Office adjustments, a review of the application file and of the patent term adjustment calculation reveal that in addition to the adjustment of 239 days pursuant to 37 CFR 1.702(a)(1), this Office was properly assessed a reduction of seven (7) days in connection with the mailing of a non-final Office action on May 29, 2008, four months and seven (7) days after the filing of the Appeal Brief on January 22, 2008, and reductions of one (1) day and three (3) days pursuant to 37 CFR 1.702(a)(2), in connection with the mailing of the non-final Office action on February 4, 2009, four months and one (1) day after the filing of the reply to the non-final office action on October 3, 2008, and in connection with the mailing of the non-final Office action on July 8, 2009, four months and three (3) days after the filing of the reply to the final Office action on March 5, 2009 respectively.

As to the period of overlap, the period is calculated beginning 316 days after the "B" period, or September 28, 2009, and is four (4) days, not zero (0) days. As such, the patent term adjustment is 808 days, not 1117 days.

Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods/
Attorney
Office of Petitions

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[1] The Office notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.

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P O BOX 366
HALF MOON BAY CA 94019

MAILED

JUL 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Dane et al,	:	
Patent Number: 7,718,921	:	DECISION ON REQUEST
Issue Date: 05/18/2010	:	FOR RECONSIDERATION OF
Application No. 10/990861	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/17/2004	:	
Attorney Docket Number: MICI 1007-1	:	

This is a decision on the petition filed on October 29, 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 seventeen (1117) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventeen (1117) days is **DISMISSED**.

Patentee's dispute the period of time excluded from B delay for appellate review. Patentee also asserts that the Office errantly calculated the period of overlap from the "B-delay" period. As to the period of overlap, Patentee's argument has been considered, but not found persuasive. The period of overlap is calculated beginning 316 days after the "B" period, or September 28, 2008, and is four (4) days; one (1) day of overlap in connection with the mailing of the final Office action on February 4, 2009, and three (3) days of overlap in connection with the mailing of the non-final Office action on July 8, 2009.

As to the period of time excluded from B delay for appellate review, Patentee's argument has also 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 316 days (191 days + 125 days), beginning

on November 20, 2007, the date of filing of the notice of appeal, and ending on May 29, 2008, the subsequent date of the mailing of a non-final Office action (191 days), and beginning on March 5, 2009, the date of filing a second notice of appeal, and ending on July 8, 2009, the subsequent date of the mailing of a non-final Office action (125 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 submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,132,400	:	
Issue Date: November 7, 2006	:	
Application No. 10/990,877	:	ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. **29708-506D01US**	:	

This is a decision on the petition filed July 27, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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.
10/990,898	11/17/2004	Gunther Stuhec	25781-0010001/2003P00575	5617

32864 7590 09/09/2010
FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
LODHI, ANDALIB FT

ART UNIT	PAPER NUMBER
2163	

NOTIFICATION DATE	DELIVERY MODE
09/09/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael E. Cox
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of: Gunther STUHEE Appl. No.: 10/990,898 Filed: November 17, 2004 For: USING A CONTROLLED VOCABULARY LIBRARY TO GENERATE BUSINESS DATA COMPONET NAMES	DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on 21 July 2010, to expunge the materials submitted pursuant to MPEP § 724.02.

The petition is **GRANTED**.

Petitioner requests that the materials in a sealed envelope submitted on 21 July 2010 be expunged from the record. Petitioner states that the materials are trade secret. The petition fee set forth in 37 CFR 1.17(g) has been paid.

Applicant is required to retain a copy of the expunged materials for the life of any patent, which issues on the above-identified application.

The expunged materials have been removed from the official file and will be forwarded to the shred room to be shredded. The petition and support document have been closed from public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,750,266	:	DECISION ON REQUEST
Brent et al.	:	FOR
Issue Date: July 6, 2010	:	RECONSIDERATION OF
Application No. 10/990,991	:	PATENT TERM ADJUSTMENT
Filed: November 17, 2004	:	and
Atty Docket No. MICI 1005-1	:	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 September 3, 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 either one thousand, one hundred and seventeen (1117) days if the periods of exclusion due to appellate review are not deducted from the period of B-delay, or nine hundred and thirty-five (935)[1] days if the periods of exclusion due to appellate review are deducted from the period of B-delay.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and twenty-nine (829) days is **GRANTED to the extent indicated herein**.

Patentee has indicated that this patent is subject to a terminal disclaimer.[2]

---

[1] On the first page of this petition, Patentee lists this number as 869, however this appears to be a typographical error. See pages 2 and 3.
[2] Petition, page 1.

This patent issued on July 6, 2010, with a patent term adjustment of 832 days. It is noted that the Office failed to include the 4-day patent term adjustment that is warranted pursuant to 37 C.F.R. § 1.703(a)(2).[3]

The Office has determined that the patent term adjustment for the above-identified patent is **829 days**.

First, the submission of May 6, 2010 does not result in a period of exclusion.[4, 5] The meaning of the phrase "a response filed on the next business day following a due date when the Office was closed (2 days)"[6] cannot be discerned by the undersigned.

Second, the Office agrees that this patent issued three years and 962 days after the application was filed.[7] However, the period of B-delay does not total 962 days.

A first notice of appeal was filed on November 20, 2007, and a non-final office action was mailed on June 27, 2008. The 221 days of the over three year period consumed by appellate review, beginning on November 20, 2007 and ending on June 27, 2008 is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

A second notice of appeal was filed on March 5, 2009, and a non-final office action was mailed on July 9, 2009. The 127 days of the over three year period consumed by appellate review, beginning on March 5, 2009 and ending on July 9, 2009 is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

A third notice of appeal was filed on April 6, 2010, and a notice of allowance was mailed on May 17, 2010. The 42 days of the over three year period consumed by appellate review, beginning on April 6, 2010 and ending on May 17, 2010 is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

It follows that 390 (221 + 127 + 42) days are excluded from the over three year period.

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[3] July 5, 2009 to July 9, 2009.
[4] Petition, page 2.
[5] It is noted that item no. one of the Notice of Allowability indicates "[t]his communication is responsive to (the submission that was received on) 5/6/10."
[6] Id.
[7] Id.

The Office has determined that the 4-day period of examination delay from July 5, 2009 to July 9, 2009 overlaps with the over three year period.

It follows that the B-delay totals 568 (962 - 390 excluded - 4 days of overlap) days.

As such, the patent term adjustment is increased by 829 (306 days of examination delay plus 568 "B-delay" minus the 45 days of Applicant delay) days, not 935 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 37 C.F.R. § 1.136.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and twenty-nine (829) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,750,266 B2

DATED : **July 6, 2010** **DRAFT**

INVENTOR(S) : Brent 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 832 days

Delete the phrase "by 832 days" and insert – by 829 days--

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Paper No.

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JUL 21 2011

OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

In re Patent No. 7,750,266	:	DECISION ON REQUEST
Brent et al.	:	FOR
Issue Date: July 6, 2010	:	RECONSIDERATION OF
Application No. 10/990,991	:	PATENT TERM ADJUSTMENT
Filed: November 17, 2004	:	and
Atty Docket No. MICI 1005-1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.705(d), filed October 26, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred and twenty-nine (829) days to either eight hundred and forty-six (846) days, eight hundred and fifty-eight (858) days, or one thousand, two hundred and twenty-eight (1228) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and thirty-one (831) days is **GRANTED to the extent indicated herein.**

Patentee has indicated that this patent is subject to a terminal disclaimer.[1]

This patent issued on July 6, 2010, with a patent term adjustment of 832 days. It is noted that the Office failed to include the 4-day patent term adjustment that is warranted pursuant to 37 C.F.R. § 1.703(a)(2).[2]

[1] Original petition, page 1.
[2] July 5, 2009 to July 9, 2009.

An original petition pursuant to 37 C.F.R § 1.705(d) was timely filed on September 3, 2010, and was granted to the extent that the patent term was extended or adjusted to 829 days, via the mailing of a decision on September 27, 2010. The decision set a non-extendable period for response of the longer of one month or 30-day period for response, which expired on October 27, 2010. As such, the renewed petition filed on October 26, 2010 was timely filed.

However, Petitioner further submitted a "supplemental comments for request for reconsideration of the patent term adjustment" on October 29, 2010. This submission was not timely filed, and as such, it cannot be entered into the record. The material contained therein has not been considered by the undersigned.

As a preliminary matter, a review of the record has revealed that one period of examination delay was miscalculated. An appeal brief was filed on January 22, 2008, and a non-final rejection was mailed four months and 36 days later. As such, a 36-day period of examination delay was assessed. This has been determined to be erroneous, as it is noted that the appeal brief of January 22, 2008 was not in compliance with 37 C.F.R. § 41.37. Pursuant to 37 C.F.R. § 1.704(a)(4), the period of examination delay is "the period beginning on the day after the date that is four months <u>after the date an appeal brief in compliance with § 41.37 of this title was filed</u> (emphasis added) and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first." An appeal brief in compliance with 37 C.F.R. § 41.37 was filed on February 20, 2008, and a non-final Office action was mailed four months and seven days later.

It follows that the 36-day adjustment has been removed, and an adjustment of seven days has been entered.

Patentee disputes the period of reduction of two days entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b). This reduction has been reconsidered, and it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. § 21(b) is not warranted.

It follows that the period of reduction of two days associated with the submission of Monday, September 29, 2008 is being removed.

Patentees further dispute the period of reduction of 43 days pursuant to 37 C.F.R. § 1.703(c)(10) associated with the submission of a terminal disclaimer on May 25, 2010. This reduction has been reconsidered, and it is determined that entry of a reduction of 14 days is appropriate. A Supplemental Notice of Allowability was mailed on June 7, 2010, which is 13 days after the submission of the terminal disclaimer. This warrants a reduction of 14 (not 12)[3] days pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the supplemental response was filed is included in the period of delay.

Accordingly, the period of reduction of 43 days is being removed and a period of reduction of 14 days is being entered in its place.

It follows that the period of applicant delay totals 14 days.

The Office has determined that the 4-day period of examination delay from July 5, 2009 to July 9, 2009 overlaps with the over three year period.

With the mailing of the decision on the original petition, Patentee was accorded 568 (962 - 390 excluded - 4 days of overlap) days for B-delay. Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 922 (962 - 40 days of overlap) days. In other words, Patentee argues 0 days, not 390 days, should have been excluded from B-delay for time consumed by appellate review.

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 —

[3] Renewed petition, page 6.

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 C.F.R. § 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

At issue is the language "[a]ny time consumed by review by the Board of Patent Appeals and Interferences" of 37 C.F.R. § 1.702(b).

A first notice of appeal was filed on November 20, 2007, and a non-final office action was mailed on June 27, 2008. The 221 days of the over three year period consumed by appellate review, beginning on November 20, 2007 and ending on June 27, 2008 is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

A second notice of appeal was filed on March 5, 2009, and a non-final office action was mailed on July 9, 2009. The 127 days of the over three year period consumed by appellate review, beginning on March 5, 2009 and ending on July 9, 2009 is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

A third notice of appeal was filed on April 6, 2010, and a notice of allowance was mailed on May 17, 2010. The 42 days of the over three year period consumed by appellate review, beginning on April 6, 2010 and ending on May 17, 2010 is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

It follows that 390 (221 + 127 + 42) days are excluded from the over three year period.

Patentee argues that the excluded period should total 0 days, and that "the jurisdiction for the application was never transferred to the Board."[4]

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 three periods consumed by appellate review total 390 days, as detailed above. Thus, B delay is 568 (962 - 390 - 4 days of overlap) 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.

Patentee argues that it is improper to exclude the 4 day period of A delay and the second period of appellate review from the over Three-Year period.[5] The Office holds that the 127-day

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[4] Petition, page 4.
[5] Id. at 5.

period from March 5, 2009 to July 9, 2009 is excluded from the period of B-delay, and the 4-day period of A-delay from July 5, 2009 to July 9, 2009 overlaps with the period of B-delay. The Office further holds that it is proper to reduce the period of B delay by both the entire excluded period and the entire period of overlap, despite the fact that 4 days of the 127-day excluded period fall on the same calendar days as the overlapping period.

As such, the patent term adjustment is increased by 831 (277 days of examination delay plus 568 "B-delay" minus the 14 days of Applicant delay) days, not 846, 858, or 1228 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or Patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and thirty-one (831) 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) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,750,266 B2

DATED : **July 6, 2010** **DRAFT**

INVENTOR(S) : Brent 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 829 days

Delete the phrase "by 829 days" and insert – by 831 days--

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United States Patent and Trademark Office
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JUL 25 2011
OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

In re Patent No.7,851,725	:	
Dane, et al.	:	DECISION FOR REQUEST
Issue Date : December 14, 2010	:	FOR RECONSIDERATION
Application No. 10/990,992	:	OF PATENT TERM
Filed: November 17, 2004	:	ADJUSTMENT
Attorney Docket No.MICI 1006-1	:	

This is a decision on the petition filed on February 14, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, three hundred and fifty (1,350) days.

The petition is dismissed.

Patentees dispute the periods 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 periods consumed by appellate review total 522 days, and are as follows: beginning on the date of filing of the first notice of appeal, November 20, 2007, and ending on June 30, 2008, the subsequent date of the mailing of a non-final Office action; beginning on the date of filing of the second notice of appeal, March 5, 2009, and ending on July 8, 2009, the subsequent date of the mailing of a non-final Office action; beginning on the date of filing of the third notice of appeal, April 6, 2010, and ending on September

24, 2010, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 601 (1,123 - 522) days. No further adjustment to the patent term is warranted.

Patentee also states:

> ...the Non-final Rejection mailed 7 January 2010, was 186 days past the four month interval required for action after filing of a Request for Pre-Appeal Conference, Although the Office mailed an action on 8 July 2009, it was withdrawn because it did not address the substance required by the favorable Pre-Appeal Conference Decision, requiring reopening of prosecution. Rather the Office Action of 8 July 2009 was substantially the same as that appealed from and resulted in the decision to re-open. Therefore the Office only properly issued an Office Action after the favorable decision on 7 January 2009. This delay should include the entire interval from 5 July 2008 (four months after the filing of the Request for Pre-Appeal Conference until 7 January 2009, or 186 days.

Excerpt taken from "Request for Reconsideration of the Patent Term Adjustment under 37 CFR 1.705(d), filed February 14, 2011, p. 3.

Patentee's arguments have been considered but are not persuasive. It is concluded that no period of adjustment for Office delay pursuant to 37 CFR 1.702(a)(2) is warranted.

It is undisputed that the Office mailed an action under 35 U.S.C. 132 in the form of a non-final Office action on July 8, 2009, within four months of the filing of the Request for Pre-Appeal Conference. The subsequent mailing of another Office action under 35 U.S.C. 132 does not alter the date used in calculation of the period of adjustment. Pursuant to 35 U.S.C. 154(b)(1)(A)(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the Office, after four months from the filing of the reply under 37 CFR 1.111 or appeal taken. The fact that the Office later withdrew the non-final Office action does not negate the fact that the Office took action within the meaning of 37 CFR 1.702(a)(2) on July 8, 2009. Further, relative to the determination of patent term adjustment, the examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless expunged from the record, for purposes of calculating patent term adjustment, the action originally mailed

by the examiner on July 8, 2009, was properly used to calculate the adjustment to the patent term, if any, pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2). See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, no period of adjustment to the patent term pursuant to 37 CFR 1.702(a)(2) will be entered.

Patentees also dispute the 6 day reduction to the patent term adjustment under 37 CFR 1.704(b) for the filing of a reply on October 6, 2008, three months and six days after a non-final Office action was mailed June 30, 2008. Patentees' argument had been considered, but is unpersuasive. A review of the application file history confirms that the reduction to the patent term adjustment of 6 days is proper; the reduction to the patent term adjustment of 6 days will not be removed.

It further noted that patentees state that the overlapping days between the period of "A" delay and "B" delay is 196 days. Patentees' calculation is not well taken. The periods of "A" and "B" delay overlap for 3 days between July 5, 2009 and July 8, 2009. No adjustment or reduction to the patent term is warranted.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

BEMIS COMPANY, INC.
Patent and Trademark Department
2200 BADGER AVENUE
OSHKOSH WI 54904

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DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Lischefski et al.	:	
Application No. 10/991,038	:	DECISION ON PETITION
Filed: November 17, 2004	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number: 20729	:	§ 1.137(B)
Title: BREATHABLE PACKAGING	:	
FILM HAVING ENHANCED	:	
THERMOFORMABILITY	:	

This is a decision on the petition filed September 29, 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 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 May 6, 2008. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on July 7, 2008. A Notice of Abandonment was mailed on December 22, 2008.

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 and the proper statement of unintentional delay. Petitioner has further indicated that a continuation application has been filed.

Office records confirm that continuation application no. 12/326,959 was filed on December 3, 2008.

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]

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application number 12/326,959.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7262353	2007-08-28	10991316	2004-11-16	GLA 2.001.US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/j curtis edmondson/	Date (YYYY-MM-DD)	2012-03-26
Name	J. Curtis Edmondson	Registration Number	57027

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. 7262353
Issue Date: August 28,2007
Application No. 10991316
Filed: November 16,2004
Attorney Docket No. GLA 2.001.US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 26,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 26,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael Best & Friedrich LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
Chicago, IL 60601

(For Patent Owner)

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NOV 05 2010

CENTRAL REEXAMINATION UNIT

John S. Mortimer
Wood, Phillips, Katz, Clark & Mortimer
500 West Street, Suite 3800
Chicago, IL 60661/2511

(For Third Party Requester)

In re Reissue Application of
William S. Schjerven Sr. *et al.*
Application No.: 10/991,326
Filed: November 17, 2004
For: U.S. Patent No. 6,481,433

In re William S. Schjerven Sr. *et al.*
Reexamination Proceeding
Control No.: 90/006,868
Filed: November 17, 2003
For: U.S. Patent No.: 6,481,433

: SUPPLEMENT TO
: PRIOR DECISION
: TO MERGE
: REISSUE AND
: REEXAMINATION
: PROCEEDINGS

This decision is supplemental to the Office's prior merger decision mailed June 20, 2005, which *sua sponte* merged reissue application No.10/991,326 and reexamination control No. 90/006,868 into a single proceeding.

The above-identified prior merger decision continues to be in effect, and all further examination in the merged proceeding should continue to be conducted in accordance with the above-identified prior merger decision, except as it is supplemented by this decision – as follows:

If a request for continued examination (RCE) is filed under 37 CFR 1.114, as is permitted for the reissue application, then the merged proceeding will be automatically severed, and the reissue application may then be suspended. Patent owner is put on notice that, in such event, a request for continued examination (RCE) is not available in the reexamination proceeding, and any response to the outstanding Office action (e.g., response to a final rejection) at that stage in the reexamination proceeding must be

made taking into account the non-availability of RCE practice. Any failure to timely respond would result in the termination of the prosecution pursuant to 37 CFR 1.550(d).

In addition, if a final Office action should be issued subsequent to the mail date of this decision in this merged proceeding, any request for extension for time (to respond to any such subsequent final action) must be filed under 37 CFR 1.136(b) where an extension is permitted by rule. No extension of time will be permitted under 37 CFR 1.136(a) after any final Office action issued in the present merged proceeding subsequent to the mail date of this decision.

The merged proceeding will otherwise continue as per the above-identified prior merger decision.

CONCLUSION

1. Reissue application No. 10/991,326 and reexamination control No. 90/006,868 remain merged as a single proceeding.

2. If a request for continued examination (RCE) is filed under 37 CFR 1.114, the merged proceeding will be automatically severed. Patent owner is put on notice that, in such event, a request for continued examination (RCE) is not available in the reexamination proceeding, and any response to the outstanding Office action (e.g., response to a final rejection) at that stage in the reexamination proceeding must be made taking into account the non-availability of RCE practice. Any failure to timely respond would result in the termination of the prosecution pursuant to per 37 CFR 1.550(d).

3. In addition, if a final Office action should be issued in this merged proceeding subsequent to the mail date of this decision, then any request for extension for time (to respond to any such subsequent action) must be filed under 37 CFR 1.136(b) where an extension is permitted by rule. No extension of time will be permitted under 37 CFR 1.136(a) after any final Office action issued subsequent to the mail date of this decision.

4. All further examination in the merged proceeding is to continue to be conducted in accordance with the above-identified prior merger decision.

5. Telephone inquiries related to this decision should be directed to Colleen Dunn at (571) 272-1170, or in her absence to Eric Keasel at (571) 272-4929 or to Mark Reinhart at (571) 272-1611.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

11/04/10

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,744,001	:	DECISION
LABREC et al.	:	DISMISSING REQUEST FOR
Issue Date: June 29, 2010	:	RECONSIDERATION OF PATENT
Application No. 10/991,354	:	TERM ADJUSTMENT
Filed: November 16, 2004	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 38820-509C01US	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. §1.705(d), filed August 24, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-one (651) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred (500) days**.

Patentee discloses that patentee should have been assessed a period of delay of 13 day for the filing of Supplemental Information Disclosure Statements on January 26, 2010 and February 1, 2010, after the filing of an RCE on January 19, 2010.

The Office concurs with patentee. It is undisputed that applicants submitted Supplemental Information Disclosure Statements on January 26, 2010 and February 1, 2010, after filing a response on January 19, 2010. The record does not

support a conclusion that the examiner expressly requested the Information Disclosure Statements. Further, a review of the Information Disclosure Statements reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, a period of 13 days for applicant delay will be entered.

Next, patentee disputes the calculation of the period of B delay. Specifically, patentee asserts: "The correct patent term adjustment calculated under 35 U.S.C § 154(b)(1)(B) is 384 days, due to the failure of the Office to issue a patent within three years after the date on which the application was filed, but not including any overlap with the period in (i) and excluding the period, if any, from the date a Request for Continued Examination ("RCE") was filed to the issue date." *Petition, p. 1.*

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The Office notes that patentee failed to account for the filing of the notice of appeal on April 11, 2008. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

After further review the Office concludes that the period consumed by appellate review is 151 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed April 11, 2008, and ending on the date of the mailing of the notice of allowance, September 8, 2008. See 37 CFR 1.703(b)(4). Thus, the B delay is 233 (384 - 151) days (not 234 days as originally shown on PAIR, nor 384 days as asserted by patentee).

Accordingly, the patent term adjustment is 500 days (485 days of A delay + 233 days of B delay - 28 days of overlap - 190 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

This matter is being referred 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 **500 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

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,744,001 B2

DATED : Jun. 29, 2010

INVENTOR(S) : LABREC 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 (514) days.

Delete the phrase "by 514 days" and insert – by 500 days--

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STEVEN B. STEIN, ESQ.
STEIN & STEIN
114 OLD BLOOMFIELD AVENUE
PARSIPPANY NJ 07054

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Kenneth L. Trabona :
Application No. 10/991,572 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No: PA03828S3 :

This is a decision on the petition filed November 18, 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 January 21, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned April 22, 2010. Accordingly, a Notice of Abandonment was mailed August 23, 2010.

This matter is being referred to Technology Center 2123 for appropriate action on the amendment filed November 18, 2010.

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

---

[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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/991,817	11/18/2004	Ari Kogut	GBKR001US0	7314

48746 7590 03/29/2011
HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
AUSTIN, TX 78701

EXAMINER
SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
3637	

MAIL DATE	DELIVERY MODE
03/29/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAR 2 9 2011

Hulsey, P.C. Intellectual Property Lawyers
919 Congress Avenue
Suite 919
Austin, Texas 78701

In re Application of:
Ari Kogut
Application No. 10/991,817
Filed: November 18, 2004
Attorney Docket No.: GBKR001US0
For: METHOD FOR MULTI-DIMENSIONAL LIVE SOUND PERFORMANCE

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to applicants' petition under 37 CFR 1.181 filed January 13, 2011 requesting withdrawal of the finality of the Office action mailed November 10, 2010 as being premature.

The Petition is **DISMISSED.**

Applicant alleges that the final rejection mailed November 10, 2010 is premature because (1) the examiner summarily dismissed applicant's September 1, 2010 detailed arguments without reference to Under Secretary Kappo's guidance of July 27, 2010, and (2) the examiner largely copied and pasted the text of the previous rejection which is evidence that consideration was not given to Applicant's arguments and explanations.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record reveals that examiner has responded to applicant's arguments as a whole and has detailed why the claims and particularly the "at least first musical instrument" and "at least second musical instrument" fail to meet the criteria of the "machine-or-transformation" test for patent eligibility under 35 USC §101. The examiner also set forth that applicant failed to provide sufficient evidence that the abstract idea set forth in the claims has been practically applied. The examiner further set forth that there was insufficient recitation of any machine. In support of the examiner's position, applicant's only recitation to "musical instruments" is found in [0003] of the Background of the Disclosure which states one approach for live sound performances "involves using different musical instruments or different

combinations of instruments. Another approach involves combining performance modes such as voice and instruments." Applicant's specification has not disclosed any particular musical instrument which would qualify as a particular machine. A reasonable interpretation of the claimed "first and second musical instruments" would include a performer's voice, a recorder or a drum, none of which would be considered machines for purposes of complying with the machine requirement of 35 CFC § 101. While applicant argues that a musical instrument is a machine, there is no evidence of record substantiating any particular musical instrument which qualifies as a machine.

Applicant may contend that examiner's response is incomplete or inadequate, however, the examiner has made a good faith effort to respond to applicant's arguments. Furthermore, the MPEP clearly states that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is not necessitated by applicant's amendment. Since the examiner did not make a new grounds of rejection in the final office action, it is expected that large portions of the rejection made in the non-final would remain unchanged.

Furthermore, where differences of opinion concern the denial of patent claims because of subject matter eligibility or definiteness, and the questions thereby raised relate to the merits, then the appeal process has long been provided by statute. The MPEP clearly states under 37 CFR 1.191(a) that an applicant for a patent dissatisfied with the primary examiner's decision in the second or final rejection of his or her claims may appeal to the Board for review of the examiner's rejection. Thus, the application of the references to support the rejection of the claims by the examiner in this application is a matter appealable to the Board of Patent Appeals and Interferences.

For the foregoing reasons, the finality of the first office action is proper and no abuse of discretion or arbitrary or capricious action is evidenced and accordingly the petition to withdraw the finality of the final office action mailed November 10 2010 is denied.

Any questions concerning this decision should be referred to SPE Darnell Jayne at (571) 272-7723.

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571)-272-5250

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P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Patent of Wakabayashi	:	
Patent No. 7,692,716	:	
Issue Date: April 6, 2010	:	DECISION ON
Application No. 10/991,855	:	REQUEST FOR RECONSIDERATION
Filed: November 19, 2004	:	OF
Atty Docket No. 121831	:	PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR RECALCULATION OF PATENT TERM EXTENSION UNDER 37 CFR 1.705," filed June 7, 2010. Patentee requests that the revised patent term adjustment indicated on the patent be corrected from seven hundred three (703) days to eight hundred twenty-three (823) days.

The petition 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 eight hundred twenty-three (823) days.

On April 6, 2010, the above-identified application matured into U.S. Patent No. 7,692,716 with a revised patent term adjustment of 703 days. On Monday, June 7, 2010, patentee timely filed the instant petition.

Patentee argues that the patent term adjustment indicated in the patent is incorrect and should be recalculated because the Office should not have charged applicant with a 120 day reduction under 37 CFR 1.704(c)(10) for the filing of a Request for Correction of Palm Records on November 23, 2009, after the mailing of the Notice of Allowance on November 18, 2009.

A review of the application history reveals patentee is correct. A Notice of Allowance was mailed on November 18, 2009. On November 23, 2009, applicant filed a Request for Correction of Palm Records because applicant noticed the title of the

invention was incorrect on the November 18, 2009 Notice of Allowance. It is noted that on March 28, 2008, applicant filed an amendment to change the title to overcome an objection to the title raised by the examiner of record in the September 28, 2007 Office action. The specification was not objected to in the final Office action, mailed on July 10, 2008. It appears that the title of the invention was not listed in any subsequently mailed Office action or correspondence until the November 18, 2009 Notice of Allowance. Applicant filed a completed Issue Fee Transmittal and the issue and publication fees on February 17, 2010.

The filing of the November 23, 2009 correspondence is **not** a basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10).

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

Applicant filed an amendment to the title on March 28, 2008 based on an objection to the specification found in the September 28, 2007 non-final Office action. The amendment was apparently approved by the examiner, as evidenced by the lack of an objection to the specification in the subsequently mailed July 10, 2008 final Office action. However, Office databases were not updated in a timely manner and no Office correspondence listed the title of the invention until the November 18, 2009 Notice of Allowance. As a result, applicant was first presented with an opportunity to address the Office's failure to make the previously approved changes to the title only after the Notice of Allowance was mailed.

The Request for Correction of Palm Records, filed November 23, 2009, falls within exception (6) listed above. It was a timely attempt to correct an error or omission in the "Notice of Allowance."

As such, no reduction pursuant to 37 CFR 1.704(c)(10) is warranted in connection with the filing of the Request for Correction of Palm Records on November 23, 2009. The 120 day reduction is being removed from the patent term adjustment record.

Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of eight hundred twenty-three (823) days, which is 619 days of A delay + 414 days of B delay minus 210 days of applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred twenty-three (823)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,692,716 B2

DATED : **April 6, 2010** **DRAFT**

INVENTOR(S) : Wakabayashi

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 703 days

Delete the phrase "by 703 days" and insert – by 823 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/991,901	11/17/2004	Mickey L. Fandrich	ITL.1222US (P20632)	8396

21906 7590 10/06/2011
TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

EXAMINER
VERBRUGGE, KEVIN

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
10/06/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

In re Application of: FANDRICH et al.
Application No. 10/991,901
Filed: November 17, 2004
Atty Docket No.: ITL.1222US (P20632)
For: MANAGING RECLAMATION FOR REMOVABLE DATA DEVICES

DECISION ON PETITION TO WITHDRAW NOTICE OF NON-COMPLIANT AMENDMENT

This is a decision on applicant's petition under 37 C.F.R. §1.181, filed on July 20, 2011, requesting that the Notice of Non-Compliant Amendment be withdrawn, and the amendment filed on May 23, 2011 be entered.

The petition is **DENIED.**

Applicable Prosecution History

July 13, 2007	Final Rejection mailed, rejecting all claims 1-36.
August 21, 2007	Applicant filed response to Final Rejection. No claims amended.
September 4, 2007	Advisory action mailed.
November 16, 2007	Notice of Appeal filed.
January 16, 2008	Appeal Brief filed.
February 11, 2008	Notice of Non-Compliant Appeal Brief mailed.
March 3, 2008	Appeal Brief filed.
March 27, 2008	Notice of Non-Compliant Appeal Brief mailed.
April 7, 2008	Appeal Brief filed. Appellant does not present claims 1, 2, 6, 8-10, 14, 16-20, 24, 26-30, 34, 36 for appeal. Only Claims on appeal are 3-5, 7, 11-13, 15, 21-23, 25, 31-33, and 35.
May 13, 2008	Notice of Non-Compliant Appeal Brief mailed.
June 3, 2008	Request for reconsideration of Notice of Non-compliant Appeal Brief.

June 24, 2008	Examiner's Answer mailed. Reiterates that claims 3-5, 7, 11-13, 15, 21-23, 25, 31-33, and 35 are the only ones on appeal.
September 8, 2008	Reply Brief filed, along with a Petition for Extension of time for 1 month.
September 25, 2008	Notice of Non-Entry of Reply Brief mailed, as Reply Brief was not filed timely.
April 27, 2011	BPAI Decision: Examiner Affirmed-in-part. Examiner affirmed on dependent claims 7, 15, 25, and 35. Examiner reversed on 3-5, 11-13, 21-23, and 31-33. However, the Board provided a New Grounds of Rejection of claims 3-5, 11-13, 21-23, and 31-33, and further stated that Appellants must exercise must (i) **Reopen prosecution** or (ii) Request Rehearing, **with respect to the new grounds of rejection**, and further stated that "No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).". The Board also directed that **"Examiner should cancel the non-appealed claims".**
May 23, 2011	Applicants filed Request to Reopen Prosecution and amending independent claims 1, 9, 17 and 27.
June 29, 2011	Notice of Non-Compliant Amendment mailed. The Notice stated as follows:

The claim listing filed 5/23/11 is not an appropriate amendment because it includes claims which are canceled (by virtue of being withdrawn from the appeal) in view of the statement in the Board decision dated 4/27/11 in the paragraph bridging pages 1 and 2 ("Following our decision, the Examiner should cancel the non-appealed claims.") In other words, the non-appealed claims are canceled since they were rejected and were not appealed. For support for this practice, see Ex parte Ghuman, 88 USPQ2d 1478 (BPAI 2008) and MPEP 1215.03, Rev. 8, July 2010, cited by the Board in the cited paragraph. Also see MPEP 1214.05.

Appellant is hereby notified that claims 1,2, 6, 8, 9, 10, 14, 16-20, 24, 26-30, 34, and 36 are canceled and should be indicated as canceled in any future claim listing.

Furthermore, the remaining claims for which the rejections were affirmed (claims 7, 15, 25, and 35) should be canceled because of the Board's decision to affirm their rejection. Additionally, these claims all depend from one or more canceled claims and are therefore now improper so for this additional reason they should be canceled.

Finally, the remaining claims for which the Examiner's rejection was reversed but to which a new rejection was applied by the Board (claims 3-5, 11-13, 21-23, and 31-33) are now improper by virtue of their dependence on canceled claims. These claims (and these claims alone) can be amended by incorporating the parent claims therein, adding any desired amendments to address the Board's rejection, and filing them as independent claims (keeping the same claim numbers or renumbering them beginning with 37).

Applicant is advised that any response that maintains a non-appealed claim or an affirmed claim (or the subject matter thereof as a new claim substantially similar to a non-appealed claim or an affirmed claim) will be held as non-responsive and not a bona-fide attempt to further the prosecution. In other words, the only claims that will be permitted in a new claim listing are those claims newly rejected by the Board, written in proper form (not dependent on canceled claims but rewritten in independent form to include the parent claims), and amended to address the Board's rejection. All other claims (1, 2, 6-10, 14-20, 24-30, and 34-36) must be indicated as canceled.

Applicant is given one month from the mailing date of this notice to file a response.

	No extensions of time are permitted under 37 CFR 1.136(a) (see MPEP 1214.01, second paragraph).
July 20, 2011	Response Requesting Reconsideration of the Notice of Non-Compliant amendment filed. No further amendments to the claims presented.
July 20, 2011	Instant petition filed, requesting entry of the amendment filed on May 23, 2011.

REQUIREMENTS

A petition under 37 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: 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.

The petition filed on July 20, 2011 includes the elements above, and is filed within 2 months of the mailing of the Notice of Non-Compliant Amendment.

RELIEF REQUESTED

The Applicant respectfully requests entry of the amendment filed on May 23, 2011.

RULES AND PROCEDURE

37 CFR 1.181(f) states:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provide. This two-month period is not extendable.

MPEP §1207.02 [R-8] Contents of Examiner's Answer

> Examiners are not required to make any determination whether fewer than all of the rejected claims are identified by the appellant as being appealed. If the notice of appeal or appeal brief identifies fewer than all of the rejected claims as being appealed, the issue will be addressed by the Board of Patent Appeals and Interferences (BPAI) panel. Therefore, the examiner will treat all pending, rejected claims as being on appeal, and must maintain all of the rejections set forth in the Office action from which the appeal is taken, unless appellant has overcome the rejection (e.g., by submitting persuasive arguments, an acceptable terminal disclaimer, or evidence).

1214.01 [R-8] Procedure Following New Ground of Rejection by Board

When the Board makes a new rejection under 37 CFR 41.50(b), the appellant, **as to each claim so rejected**, has the option of:

(A) reopening prosecution before the examiner by submitting an appropriate amendment and /or new evidence (37 CFR 41.50(b)(1)); or

(B) requesting rehearing before the Board (37 CFR 41.50(b)(2)).

The amendment and/or new evidence under 37 CFR 41.50(b)(1), or the request for rehearing under 37 CFR 41.50(b)(2), must be filed within 2 months from the date of the Board's decision. In accordance with 37 CFR 41.50(f), this 2-month time period may not be extended by the filing of a petition and fee under 37 CFR 1.136(a), but only under the provisions of 37 CFR 1.136(b), or under 37 CFR 1.550(c) if the appeal involves an ex parte reexamination proceeding.

.....

I. SUBMISSION OF AMENDMENT OR NEW EVIDENCE

37 CFR 41.50(b)(1) provides that the application will be remanded to the examiner for reconsideration if the appellant submits "an appropriate amendment" of the claims rejected by the Board, "or new evidence relating to the claims so rejected, or both." An amendment is "appropriate" under the rule if it amends one or more of the claims rejected, or substitutes new claims to avoid the art or reasons adduced by the Board. Ex parte Burrowes, 110 O.G. 599, 1904 C.D. 155 (Comm'r Pat. 1904). **Such amended or new claims must be directed to the same subject matter as the appealed claims**. Ex parte Comstock, 317 O.G. 4,1923 C.D. 82 (Comm'r Pat. 1923). An amendment which adds new claims without either amending the rejected claims, or substituting new claims for the rejected claims, is not appropriate. The new claims will not be entered, and the examiner should return the application file to the Board for consideration of the amendment as a request for rehearing under 37 CFR 41.50(b)(2), if it contains any argument concerning the Board's rejection. The "new evidence" under the rule may be a showing under 37 CFR 1.130, 1.131 or 1.132, as may be appropriate.

.....

The new ground of rejection raised by the Board does not reopen prosecution except as to that subject matter to which the new rejection was applied. If the Board's decision in which the rejection under 37 CFR 41.50(b) was made includes an affirmance of the examiner's rejection, the basis of the affirmed rejection is not open to further prosecution. If the appellant elects to proceed before the examiner with regard to the new rejection, the Board's affirmance of the examiner's rejection will be treated as nonfinal for purposes of seeking judicial review, and no request for reconsideration of the affirmance need be filed at that time. Prosecution before the examiner of the 37 CFR 41.50(b) rejection can incidentally result in overcoming the affirmed rejection even though the affirmed rejection is not open to further prosecution. Therefore, it is possible for the application to be allowed as a result of the limited prosecution before the examiner of the 37 CFR 41.50(b) rejection.

MPEP § 1214.05 [R-3] Cancellation of Withdrawn Claims, states:

Where an appellant withdraws some of the appealed claims (i.e., **claims subject to a ground of rejection that the appellant did not present for review in the brief), and the Board reverses the examiner on the remaining appealed claims, the withdrawal is treated as an authorization to cancel the withdrawn claims**. It is necessary for the examiner to notify the appellant of the cancellation of the withdrawn claims. See MPEP § 1215.03.

MPEP §1214.07 [R-3] Reopening of Prosecution

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.

Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. <u>In view of the fact that prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application will be reopened and the amendment will be entered</u>. See MPEP § 706.07(h), paragraph XI.

.....

1215.03 [R-3] Partial Withdrawal

A withdrawal of the appeal as to some of the claims on appeal operates as an authorization to cancel those claims from the application or reexamination proceeding and the appeal continues as to the remaining claims. The withdrawn claims will be canceled from an application by direction of the examiner at the time of the withdrawal of the appeal as to those claims.

706.07(h) [R-6] Request for Continued Examination (RCE) Practice

XI. AFTER DECISION BY THE BOARD

A. Proper RCE After Board Decision

The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of the rejection or action being withdrawn and the submission being considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for

> commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304 and MPEP § 1216.
> Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed.
> .....
> See MPEP § 1214.01 (where a new ground of rejection is entered by the Board of Patent Appeals and Interferences pursuant to 37 CFR 41.50(b), argument without either **amendment of the claims so rejected** or the submission of a showing of facts can only result in a final rejection of the claims, since the examiner is without authority to allow the claims unless amended or unless the rejection is overcome by a showing of facts not before the Board of Patent Appeals and Interferences). As such, a submission containing arguments without either amendment of the rejected claims or the submission of a showing of facts will not be effective to remove such rejection.

DECISION

Petitioner argue that "the Examiner refuses to enter the amendment, citing a plurality of M.P.E.P. sections that do not appear to be applicable here, including M.P.E.P. § 1214.05 and § 1215.03..... because this is a situation where the Board entered a new ground of rejection and the applicant elected to reopen prosecution", and further stating that per M.P.E.P. § 1214.01, titled "Procedure Following New Ground of Rejection by the Board." and the corresponding rules allow amendment under appropriate circumstances, and further state that "an amendment is appropriate under this rule if it amends one or more of the claims rejected, or substitutes new claims to avoid art or reasons deduced by the Board."

Petitioner should note that M.P.E.P. § 1214.01 states that "When the Board makes a new rejection under 37 CFR 41.50(b), **the appellant, <u>as to each claim so rejected</u>, has the option of re-opening** prosecution before the examiner by submitting an appropriate amendment and /or new evidence (37 CFR 41.50(b)(1)). In the instant application, claim 1 was not one of the claims rejected (or even considered) by the Board, since Petitioner had decided not to pursue claim 1 on appeal. By virtue of Petitioner deciding not to appeal claim 1, the prosecution with respect to claim 1 is closed with the mailing of the Final Rejection on July 13, 2007, and so claim 1 is not available for amendment in response to Board Decision. The only claims that are available to be amended by Petitioner are the claims 3-5, 11-13, 21-23, and 31-33 that were subject to the New Grounds of Rejection by the Board.

Per MPEP 1215.03, a **withdrawal of the appeal as to some of the claims on appeal operates as an authorization to cancel those claims from the application.** The Board clearly set forth that following the Board Decision the unappealed claims should be cancelled.

Petitioners argue that " Specifically, the Board found that claim 3 could cover the situation where as long as there was reclamation any time before power down, certain claims, including claim 3, would read on that operation. See the Board's Decision at pages 10 and 11.", and proceed to amend claim 1 from which claim 3 depends. Petitioner seems to equate this to amending claim 3. Petitioner argues that the amended claims are directed to the same subject matter as the appealed claim 3. However, it is noted that amended claim 1 does not include any of the limitations of claim 3, and hence is drawn to an invention not examined hitherto, and introduces new issues that cannot be introduced after close of prosecution on the claim. Petitioner seems to have misunderstood Examiner's suggestion to amend claim 3 instead of claim 1. Per MPEP 1214.01, "**Such amended or new claims must be directed to the same subject matter as the appealed claims".** As explained above, prosecution on the merits is closed with regard to claim 1. Claim 3 could be amended with the same limitations as have been introduced into claim 1.

Per MPEP 1214.07, where **an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims, <u>the appellant is not entitled to have such amendment entered as a matter of right, in view of the fact that prosecution is closed</u>. However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application will be reopened and the amendment will be entered.** Petitioner is directed to MPEP section **706.07(h) [R-6] Request for Continued Examination (RCE) Practice:** XI. AFTER DECISION BY THE BOARD.

Accordingly, the petition is **<u>DENIED.</u>** The Amendment filed on May 23, 2011 is considered to be non-compliant for reasons set forth above, and also set forth by the examiner in the Notice of Non-Compliant Amendment mailed on June 29, 2011. The Board specifically set forth a two-month period for response and expressly stated that "No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).". The two month time to respond after Board Decision ended on June 27, 2011. In response to the Amendment filed on May 23, 2011, Examiner in the Notice of Non-Compliant amendment mailed on June 29, 2011, provided a detailed explanation on why the amendment was non-complaint, and provided a month-time, non-extendible under 37 C.F.R. § 1.136, for Petitioners to provide an amendment that would overcome the Notice of Non-Compliant Amendment. The one month time to respond to Notice of Non-Compliant Amendment ended on July 29, 2011.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NRR/MP

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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Application of :
Mickey L. FANDRICH, et al. :
Application No. 10/991,901 :
Filed: November 17, 2004 :
Attorney Docket No.: ITL.1222US :
(P20632)

ON PETITION

This is a decision on the petition filed, October 19, 2011, under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 2100 (Technology Center Director), dated October 6, 2011, which refused to withdraw the Notice of Non-Compliant Amendment of June 29, 2011 and return the application to the examiner for further prosecution.

This application became abandoned on July 30, 2011 for failure to respond the Notice of Non-Compliant Amendment of June 29, 2011. As the application is now abandoned, the petition to overturn the decision of the Technology Center Director is **DISMISSED** as moot.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

Anthony Knight
Director
Office of Petitions

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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

MAILED

FEB 09 2012

OFFICE OF PETITIONS

In re Application of	:	
Fandrich et al.	:	
Application No.: 10/991901	:	DECISION ON
Filing or 371(c) Date: 11/17/2004	:	PETITION
Attorney Docket Number: ITL.1222US (P20632)	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed December 21, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed June 29, 2011. The Notice set a one (1) month period for reply. No reply having been received, the application became abandoned on July 30, 2011. A Notice of Abandonment was mailed October 18, 2011.

Applicant files the present petition, a Request for Continued Examination ("RCE") and fee, and an Amendment in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2189 for processing of the reply to the Notice filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of :
Yuancheng Ren et al. :
Patent No. 7,196,914 : NOTICE
Application No. 10/992,227 :
Filed: November 19, 2004 :
Attorney Docket No. **01640483AA**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 28, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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MAILED

JUN 21 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (SV)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of
DeStefano, et al.
Application No. 10/992,230
Filed: November 18, 2004
Atty. Dkt. No.: 21366-00013001

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.137(a) filed June 15, 2011. This matter is being properly treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The Notice of Abandonment mailed May 31, 2011 indicates that the application is abandoned in view of the "decision by the Board of Patent Appeals and Interference rendered on *03/25/11* and because the period for seeking court review of the decision has expired and there are no allowed claims."

Petitioner asserts that a reply (RCE, including fee and submission) was timely filed May 24, 2011.

The reply filed May 24, 2011 has been located in the official application file.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Group Art Unit 2162 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,666,395	:
Richard Boucher	: DECISION ON REQUEST FOR
Issue Date: February 18, 2004	: RECONSIDERATION OF
Application No. 10/992,454	: PATENT TERM ADJUSTMENT
Filed: November 18, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 5470-250DV2	: TO ISSUE CERTIFICATE OF
Title: COMPOUNDS AND METHODS	: CORRECTION
FOR THE TREATMENT OF AIRWAY	:
DISEASES AND FOR THE DELIVERY	:
OF AIRWAY DRUGS	:

This is a decision on the petition filed on March 11, 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 (1,407) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred four (1,404) days is **GRANTED to the extent indicated herein.**

Patentees contend that a 3-day reduction for the submission of the reply to the Notice of Allowance on January 4, 2010 should not be assessed. Patentees maintain the Notice of Allowance provided a due date of January 4, 2010.

The Office has considered applicant's argument but does not find it persuasive. The Office has concluded that the reduction of 3 days was properly entered based on 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection,

> objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 3 days for the submission of reply on January 4, 2010 is warranted. The PTA was properly reduced by 3 days, the number of days in excess of three months that was taken to reply to the October 1, 2009 Notice of Allowance. The fact that a reply could be filed on January 4, 2010 and be deemed timely to avoid abandonment does not mean a reduction is not warranted. The actual date of receipt of the correspondence in the Office is used for all other purposes. The Office notes that the date of filing of a paper will be used in calculating any periods of reduction of patent term adjustment. If patentees wanted to avoid a reduction patentees should have considered the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, patentees could have chosen to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred four (1,404) days.**

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,666,395 B2

DATED : **February 23, 2010** **DRAFT**

INVENTOR(S) : Richard Boucher

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 782 days

Delete the phrase "by 782 days" and insert – by 1,404 days--

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Paper No.

HOGAN LOVELLS US LLP
ONE TABOR CENTER
1200 17TH STREET, SUITE 1500
DENVER CO 80202

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,598,383	: DECISION ON REQUEST
Marlow et al.	: FOR
Issue Date: October 6, 2009	: RECONSIDERATION OF
Application No. 10/992,612	: PATENT TERM ADJUSTMENT
Filed: November 18, 2004	: and
Atty Docket No. ARR008 CIP1	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 5, 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 three hundred two (1302) 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 three hundred two (1302) 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 three hundred two** (1302) 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 : 7,598,383 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Marlow 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 725 days

Delete the phrase "by 725 days" and insert – by 1302 days--

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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
7700 FORSYTH BOULEVARD
SUITE 1800
ST. LOUIS MO 63105

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of
WUNDERLICH, et al.
Application No. 10/992,874
Filed: November 18, 2004
Attorney Docket No. 17496-6

DECISION ON PETITIONS
UNDER 37 CFR 1.182

This is a decision on the Petition under 37 CFR § 1.182 to Change Order of Names, filed April 4, 2011. A petition under 37 CFR 1.182 requesting expedited treatment of the April 4, 2011 petition was subsequently filed on April 11, 2011. The requisite $400.00 petition fee (Fee Code 1462) for the April 4, 2011 petition and the requisite $400.00 petition fee (Fee Code 1462) for the April 11, 2011 petition requesting expedited processing have both been submitted.

The petition requesting a change the order of inventors is **GRANTED**.

The petition to expedite is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this decision may be directed to Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt, 3 pages

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
10/992,874	11/18/2004	3781	760	17496-6	20	2

CONFIRMATION NO. 1953

CORRECTED FILING RECEIPT

38077
PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
7700 FORSYTH BOULEVARD
SUITE 1800
ST. LOUIS, MO 63105

OC000000047085798

Date Mailed: 04/12/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Paul H. Wunderlich, Chesterfield, MO;
Alex H. Amanat, Chesterfield, MO;
Douglas Hidding, Barrington Hills, IL;

Power of Attorney: The patent practitioners associated with Customer Number 38077

Domestic Priority data as claimed by applicant

This application is a CIP of 10/113,805 03/29/2002 ABN
and is a CIP of 09/535,576 03/27/2000 PAT 6,386,385

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 02/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/992,874**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

APPARATUS FOR REMOVING TAMPER-EVIDENT SEALS FROM CONTAINERS

Preliminary Class

220

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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290 CONCORD ROAD
BILLERICA MA 01821

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OCT 14 2010

OFFICE OF PETITIONS

In re Application of
Furey et al.
Application No. 10/992,877
Filed: November 19, 2004
Attorney Docket No. MCA-670 US

DECISION ON PETITION

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, June 23, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 24, 2009. A Notice of Abandonment was mailed January 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Additionally, 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.

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 application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 3754 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10992912
Filing Date	18-Nov-2004
First Named Inventor	Richard Ewers
Art Unit	3731
Examiner Name	AMY LANG
Attorney Docket Number	USGINZ02115
Title	APPARATUS AND METHODS FOR FORMING GASTROINTESTINAL TISSUE APPROXIMATIONS

◉ 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 : 10992912

Filed : 18-Nov-2004

Attorney Docket No : USGINZ02115

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

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,790,924	:
Simmard et al.	: DECISION ON REQUEST FOR
Issue Date: September 7, 2010	: RECONSIDERATION OF
Application No. 10/993,344	: PATENT TERM ADJUSTMENT
Filed: November 19, 2004	:
Attorney Docket No. T-6279	:
Title: PROCESS FOR PREPARING	:
ALKYLENE OXIDE-ADDUCTED	:
HYDROCARBYL AMIDES	:

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 one thousand three hundred twenty-eight (1,328) 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 649 (601 + 48) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1023 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed December 5, 2008. The reduction of 84 days commenced December 5, 2008; the date that the Notice of Appeal was filed, and ended February 26, 2009, the day of the mailing of the Office action. See, 37 CFR 1.703(b)(4).

Patentees also contend that an additional reduction of 87 days for the submission of the Notice of Appeal on December 5, 2008 in response to the June 9, 2008 Office action is required.

A review of the record shows that an additional reduction of 87 days is not warranted. The Notice of Panel Decision from Pre-Appeal Brief Review reopened prosecution. Thus, the June 9, 2008 action was treated as a non-final action. As such the amendment submitted on September 9, 2008 was a timely response. A 48 day adjustment for Office delay in responding to the September 9, 2008 amendment was entered.

Patentees' delay total 209 days.

In view thereof, the patent is entitled to an overall adjustment of 1332 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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MAILED
AUG 10 2011
OFFICE OF PETITIONS

MERCK
126 East Lincoln Ave
RY60-30
Rahway NJ 07065

In re Application of	:	
Wang et al.	:	DECISION
Application No. 10/993,395	:	ON APPLICATION FOR
Filed: November 19, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. OC06100US01	:	
Title: ANTI-IGFR ANTIBODY	:	
THERAPEUTIC COMBINATIONS	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705," filed July 18, 2011, which is being treated as a petition pursuant to 37 C.F.R. § 1.705(b). Applicants request that four periods of Applicant delay be corrected, and it is noted that the patent term adjustment would remain zero (0) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **GRANTED** to the extent that the latter three of the four requested corrections have been made. The 85-day reduction associated with the submission of the Request for Continued Examination (RCE) has been deemed to be correct.

On March 21, 2011, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was zero days. The present request for reconsideration, filed on July 18, 2011, was timely filed as it was submitted concurrently with the submission of the issue fee on April 12, 2011. See § 1.705(b).

Applicants have indicated that any patent issuing from this patent is subject to a terminal disclaimer.[1]

With this petition, Applicants argue that four periods of reduction are improper. A discussion follows.

[1] Petition, page 3.

First, a final rejection was mailed on August 2, 2010, an after-final amendment was filed on November 2, 2010, an advisory action was mailed on December 3, 2010 which indicated that the after-final amendment "fails to place the application in condition for allowance," and an RCE was filed on January 26, 2011, which is three months and 85 days after the mailing of the final Office action of August 2, 2010. As such, 85 days of applicant delay was assessed, pursuant to 37 C.F.R. § 1.704(b).

Applicants argue that no reduction was warranted, as the after-final amendment was timely filed.[2] Applicants' argument is not persuasive, for the period of applicant delay in taking action in response to a final Office action is calculated based on the date a reply is filed in compliance with 37 C.F.R. § 1.113(c). MPEP § 2731 sets forth, *in pertinent part*:

> 37 CFR 1.703(a)(3) also pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii) and specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date a reply in compliance with 37 CFR 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. A reply under 37 CFR 1.113 is a reply to a final Office action, and a reply in compliance with 37 CFR 1.113 is a reply that cancels all of the rejected claims and removes all outstanding objections and requirements or otherwise places the application in condition for allowance. Any amendment after final that does not cancel all of the rejected claims and remove all outstanding objections and requirements or otherwise place the application in condition for allowance is not a reply in compliance with 37 CFR 1.113(c).

As such, the four-month period for the Office to provide a response does not commence until an acceptable reply to the final Office action is received. Therefore, the after-final amendment of November 2, 2010 that did not place the application in condition for allowance was not a proper reply. It follows that Applicant's delay continued to run pursuant to Rule 1.704(b) until a proper reply was received (January 26, 2011), when the Office's four-month period for response commenced.

It follows that the reduction of 85 days was properly assessed. If Applicants wish to contest this finding, Applicants are given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

Second, a response to a restriction requirement was filed on March 19, 2007, and an Information Disclosure Statement (IDS)

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[2] Petition, page 2.

was submitted 11 days later on March 30, 2007. This warrants a reduction of 11 days, pursuant to 37 C.F.R. § 1.704(c)(8). Applicants argue that a reduction of ten days is warranted, due to the fact that the response to the restriction requirement was filed on March 20, 2007 and the IDS was submitted ten days later on March 30, 2007. A review of the record suggests that Applicants are correct. Although the Patent Application Location Monitoring System shows that the response to the restriction requirement was filed on March 19, 2007, it is noted that the document itself is dated March 20, 2007, the Image File Wrapper shows a receipt date of March 20, 2007, and Office records show that the concurrently submitted payment that is associated with a three-month extension of time was received on March 20, 2007. It follows that the Office incorrectly used the date of March 19, 2007 when assessing the reduction, and the proper period of applicant delay should be calculated using a filing date of March 20, 2007 for the response to the restriction requirement, which warrants a reduction of ten, not 11, days.

The 11 day reduction has been removed and a reduction of ten days has been entered.

Third, a non-final Office action was mailed on December 3, 2007, and a response was received three months and 23 days later on March 26, 2008. This warrants a reduction of 23 days, pursuant to 37 C.F.R. § 1.704(b). Applicants argue that a reduction of 24 days is warranted, due to the fact that the response to the non-final Office action was filed on March 27, 2008. A review of the record suggests that Applicants are correct. Although the Patent Application Location Monitoring System shows that the response to the non-final Office action was filed on March 26, 2008, it is noted that the document itself is dated March 27, 2007, the Image File Wrapper shows a receipt date of March 27, 2007, and Office records show that the concurrently submitted payment that is associated with a one-month extension of time was received on March 27, 2008. It follows that the Office incorrectly used the date of March 26, 2008 when assessing the reduction, and the proper period of applicant delay should be calculated using a filing date of March 27, 2008 for the response to the non-final Office action, which warrants a reduction of 24, not 23, days.

The 23 day reduction has been removed and a reduction of 24 days has been entered.

Fourth, the aforementioned response of March 27, 2008 was deemed non-responsive via the mailing of a notice on July 1, 2008, and a subsequent amendment was filed on August 22, 2008, which is 148 days after the submission of March 27, 2008. This warrants a reduction of 148 days, pursuant to 37 C.F.R. § 1.704(c)(7). However, similar to that which was discussed in a preceding paragraph, the Office used the date of March 26, 2008 as the filing date of the submission of March 27, 2008, which resulted in a reduction of 149 days.

The 149 day reduction has been removed and a reduction of 148 days has been entered.

Applicant delay totals 636 (10 + 83 + 24 + 148 + 112 + 117 + 29 + 28 +85) days, not 637 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.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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.

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON APPLICATION
Application No. 10/993,395	:	FOR
Filed: November 19, 2004	:	PATENT TERM ADJUSTMENT
Patent No. 8,017,735	:	
Issue Date: September 13, 2011	:	
Attorney Docket No. OC06100US01	:	
Title: ANTI-IGFR ANTIBODY	:	
THERAPEUTIC COMBINATIONS	:	

This decision is in response to the "REQEUST FOR RECALCULATION OF PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705(d)," filed on September 19, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred and ninety-seven (897)[1] days to one thousand, one hundred and sixty-three (1163) days.

The request for reconsideration of the patent term adjustment is **DISMISSED**.

Patentee is given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

BACKGROUND

On September 13, 2011, the above-identified application matured into US Patent No. 8,017,735 with a patent term adjustment of 897 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

[1] Patentee has erroneously asserted that this patent issued with a PTA of 896 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The record supports a conclusion that this patent is not subject to a terminal disclaimer.

Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 1163 days. The Office agrees that a Request for Continued Examination (RCE) was filed three years and 1163 days after the filing of the application, and as such, the period of B-delay totals 1163 days. However, Patentee has requested that this patent receive a PTA of 1163 days.

Patentee's argument has been considered, and has not been deemed to be persuasive.

In coming to the conclusion that a PTA of 1163 days is warranted, it does not appear that Patentee has taken into account the 379 days of examination delay and the 636 days of applicant delay.

It is noted that Patentee has disputed neither the 379 days of examination delay nor the 636 days of applicant delay.

Patentee will note that 35 U.S.C. § 154(b)(1)(A)(i) requires the Office to "provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after the date on which an application was filed under section 111(a) of this title; or the date on which an international application fulfilled the requirements of section 371 of this title." The application was filed on November 19, 2004, and a restriction requirement was mailed 14 months and 370 days later on January 24, 2007, resulting in 370 days of examination delay, pursuant to 35 U.S.C. § 154(b)(1)(A)(i).

Patentee will further note that 35 U.S.C. § 154(b)(1)(A)(ii) requires the Office to "respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken." A response to a restriction requirement was filed on October 21, 2009, and a non-final rejection was mailed 4 months and nine

days later on March 2, 2010, resulting in nine days of examination delay, pursuant to 35 U.S.C. § 154(b)(1)(A)(ii).

It follows that examination delay totals 379 (370 + 9) days.

The Office has determined that nine days of examination delay overlap with the 1163-day over three years period.

Patentee will note that 35 U.S.C. § 154(b)(2)(C)(i) sets forth that "[t]he period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application." As such, the Office is required to reduce the aforementioned 379 day period and the 1154 (1163 - 9) day period by the 636 days which Applicant failed to engage in reasonable efforts to conclude prosecution of the application.

Accordingly, at issuance, the Office properly entered 1154 (1163 - 9) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent. It follows that Patentee is entitled to a patent term adjustment of 897 days:

	379 days of examination delay
+	1163 days attributable to the Office taking in excess of 3 years to issue the patent
–	9 days of overlap
–	636 days of applicant delay.
=	897

CONCLUSION

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. § 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. § 154(b)(3) be filed in the United States

District Court for the District of Columbia within 180 days after the grant of the patent.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

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.

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[2] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[3] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[4] (571) 273-8300: please note this is a central facsimile number.
[5] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[6]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: MERCK & CO., INTELLECTUAL PROPERTY GROUP
126 EAST LINCOLN AVENUE
MAIL STOP: RY60-30
RAHWAY, NJ 07065-0907

[6] 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.

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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

MAILED
JUL 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Nicely et al.	:	
Application No. 10/993402	:	ON REQUEST FOR RECONSIDERATION
Filing or 371(c) Date: 11/18/2004	:	OF PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
3718611.03590	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 3, 2011. Applicant submits that the patent term adjustment should be decreased to 329 days, not 341 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon an assertion that the Office erred in failing to calculate a reduction of 12 days pursuant to 37 CFR 1.704(c)(8).

The request for reconsideration of patent term adjustment is **GRANTED to the Extent Indicated**.

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 three hundred twenty-three **(323)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 13, 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 341 days.

On May 3, 2011, applicant timely submitted the present application for patent term adjustment[1]. Applicant asserts that the Office erred in failing to calculate a reduction of 12 days pursuant to 37 CFR 1.704(c)(8).

Applicant's argument has been carefully considered. A review of Office records confirm that applicant filed a Request for Continued Examination ("RCE"), and an Amendment, in response to a final Office action, on February 25, 2009. Thereafter, applicant filed an Information Disclosure Statement ("IDS"), on March 9, 2009. A review of the IDS, filed March 9, 2009,

[1] Office records show that the Issue Fee payment was received in the Office on July 11, 2011.

confirms that the IDS does not contain the language required by 37 CFR 1.704(d). As such, pursuant to 37 CFR 1.704(c)(8), the application is properly assessed a reduction of 12 days, commencing February 26, 2009, the day after the date that the reply to the final Office action was filed, and ending on the date the IDS was filed, March 9, 2009.

A further review of Office records reveals that the Office also erred in failing to calculate a reduction, pursuant to 37 CFR 1.704(c)(8), in connection with the IDS filed April 9, 2008. Office records confirm that Applicant filed an RCE and Amendment on April 3, 2008, in reply to a final Office action mailed December 6, 2007. Thereafter, applicant filed an IDS on April 9, 2008. A review of the IDS, filed April 9, 2008, confirms that the IDS does not contain the language required by 37 CFR 1.704(d). As such, pursuant to 37 CFR 1.704(c)(8), the application is properly assessed a reduction of 6 days, commencing April 4, 2008, the day after the date that the reply to the final Office action was filed, and ending on the date the IDS was filed, April 9, 2008.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is three hundred twenty-three (323) days, subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10993402 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10993402

Application Filing Date	11/18/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	466
A Delays	466	PTO Manual Adjustment	-18
B Delays	0	Applicant Delay (APPL)	125
C Delays	0	Total PTA (days)	323

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
137	07/18/2011		P028	Adjustment of PTA Calculation by PTO		18	0
126	04/13/2011	03/03/2011	MN/=.	Mail Notice of Allowance			117
125	04/09/2011		IREV	Issue Revision Completed			0
124	04/09/2011		DVER	Document Verification			0
123	04/09/2011		N/=.	Notice of Allowance Data Verification Completed			0
122	04/07/2011		CNTA	Allowability Notice			0
121	04/07/2011		FWDX	Date Forwarded to Examiner			0
120	04/07/2011		MAPCA	Mail Appeals conf. Rej. withdrawn			0
119	04/05/2011		APCA	Pre-Appeals Conference Decision - Rejection Withdrawn			0
118	03/03/2011		AP.C	Request for Pre-Appeal Conference Filed			0
117	03/03/2011		N/AP	Notice of Appeal Filed			0
116	02/08/2011		EML_NTR	Email Notification			0
115	02/08/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
114	02/02/2011		CTAV	Advisory Action (PTOL-303)			0
113	01/21/2011		FWDX	Date Forwarded to Examiner			0
111	01/21/2011		EML_NTR	Email Notification			0
110	01/21/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
112	01/20/2011		A.NE	Amendment after Final Rejection			0
109	01/14/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
108	12/03/2010		ELC_RVW	Electronic Review			0
107	12/03/2010		EML_NTF	Email Notification			0
106	12/03/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
105	11/30/2010		CTFR	Final Rejection			0
104	10/06/2010		DOCK	Case Docketed to Examiner in GAU			0
103	09/21/2010		FWDX	Date Forwarded to Examiner			0
102	09/17/2010		A...	Response after Non-Final Action			0
101	06/18/2010		ELC_RVW	Electronic Review			0
100	06/18/2010		EML_NTF	Email Notification			0
99	06/18/2010		MCTNF	Mail Non-Final Rejection			0
98	06/15/2010		CTNF	Non-Final Rejection			0
97	03/08/2010		FWDX	Date Forwarded to Examiner			0
94	03/08/2010		ABN9	Disposal for a RCE / CPA / R129			0
96	03/02/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
95	03/02/2010		RCEX	Request for Continued Examination (RCE)			0
93	03/02/2010		BRCE	Workflow - Request for RCE - Begin			0
92	02/22/2010		EML_NTR	Email Notification			0
91	02/22/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
90	02/16/2010		CTAV	Advisory Action (PTOL-303)			0
89	02/10/2010		FWDX	Date Forwarded to Examiner			0
88	02/09/2010		A.NE	Amendment after Final Rejection			0
87	12/09/2009		ELC_RVW	Electronic Review			0
86	12/09/2009		EML_NTF	Email Notification			0
85	12/09/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
84	12/07/2009		CTFR	Final Rejection			0
83	09/28/2009		FWDX	Date Forwarded to Examiner			0
82	08/11/2009		A...	Response after Non-Final Action			0
81	05/11/2009		ELC_RVW	Electronic Review			0
80	05/11/2009		EML_NTF	Email Notification			0
79	05/11/2009		MCTNF	Mail Non-Final Rejection			0
78	05/07/2009		CTNF	Non-Final Rejection			0
75	03/10/2009		FWDX	Date Forwarded to Examiner			0
73	03/10/2009		FWDX	Date Forwarded to Examiner			0
71	03/10/2009		ABN9	Disposal for a RCE / CPA / R129			0
77	03/09/2009		IDSC	Information Disclosure Statement considered			0
76	03/09/2009		EIDS.	Electronic Information Disclosure Statement			0
70	03/09/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
74	02/25/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
72	02/25/2009		RCEX	Request for Continued Examination (RCE)			0
69	02/25/2009		BRCE	Workflow - Request for RCE - Begin			0
68	11/25/2008		ELC_RVW	Electronic Review			0
67	11/25/2008		EML_NTF	Email Notification			0
66	11/25/2008	11/23/2008	MCTFR	Mail Final Rejection (PTOL - 326)	2		57
65	11/10/2008		CTFR	Final Rejection			0
58	08/22/2008		FWDX	Date Forwarded to Examiner			0
63	07/30/2008		IDSC	Information Disclosure Statement considered			0
61	07/30/2008	07/23/2008	EIDS.	Electronic Information Disclosure Statement		7	57

56	07/30/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
62	07/23/2008		IDSC	Information Disclosure Statement considered			0
60	07/23/2008		RCAP	Reference capture on IDS			0
59	07/23/2008		EIDS.	Electronic Information Disclosure Statement			0
57	07/23/2008		A...	Response after Non-Final Action			0
55	07/23/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
54	07/23/2008		EML_NTR	Email Notification			0
53	07/22/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
52	07/16/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
64	07/02/2008		M865	Letter Requesting Interview with Examiner			0
48	04/24/2008		ELC_RVW	Electronic Review			0
47	04/23/2008		EML_NTF	Email Notification			0
46	04/23/2008		MCTNF	Mail Non-Final Rejection			0
45	04/18/2008		CTNF	Non-Final Rejection			0
42	04/10/2008		FWDX	Date Forwarded to Examiner			0
40	04/10/2008		FWDX	Date Forwarded to Examiner			0
38	04/10/2008		ABN9	Disposal for a RCE / CPA / R129			0
51	04/09/2008		RCAP	Reference capture on IDS			0
49	04/09/2008		M844	Information Disclosure Statement (IDS) Filed			0
44	04/09/2008		IDSC	Information Disclosure Statement considered			0
43	04/09/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
41	04/03/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
39	04/03/2008	03/06/2008	RCEX	Request for Continued Examination (RCE)		28	33
37	04/03/2008		XT/G	Request for Extension of Time - Granted			0
36	04/03/2008		BRCE	Workflow - Request for RCE - Begin			0
35	12/07/2007		ELC_RVW	Electronic Review			0
34	12/06/2007		EML_NTF	Email Notification			0
33	12/06/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
32	12/03/2007		CTFR	Final Rejection			0
30	11/02/2007		FWDX	Date Forwarded to Examiner			0
31	10/25/2007		C614	New or Additional Drawing Filed			0
29	10/25/2007	07/27/2007	A...	Response after Non-Final Action		90	26
28	10/25/2007		XT/G	Request for Extension of Time - Granted			0
27	08/21/2007		DOCK	Case Docketed to Examiner in GAU			0
26	04/27/2007	01/18/2006	MCTNF	Mail Non-Final Rejection	464		0.5
25	04/26/2007		CTNF	Non-Final Rejection			0
23	03/23/2007		DOCK	Case Docketed to Examiner in GAU			0
22	03/05/2007		C.AD	Correspondence Address Change			0
21	03/05/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
20	01/18/2007		MPTDI	Mail-Petition Decision - Dismissed			0
19	10/26/2006		PET.	Petition Entered			0
18	10/05/2006		DOCK	Case Docketed to Examiner in GAU			0
17	08/25/2006		DOCK	Case Docketed to Examiner in GAU			0
24	04/03/2006		IDSC	Information Disclosure Statement considered			0
16	04/03/2006		RCAP	Reference capture on IDS			0
15.7	04/03/2006		M844	Information Disclosure Statement (IDS) Filed			0
15	04/03/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
14	10/12/2005		DOCK	Case Docketed to Examiner in GAU			0
13	10/06/2005		DOCK	Case Docketed to Examiner in GAU			0
12	06/15/2005		A.PE	Preliminary Amendment			0
11	06/13/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
10	06/13/2005		DOCK	Case Docketed to Examiner in GAU			0
9	04/12/2005		OIPE	Application Dispatched from OIPE			0
8	04/12/2005		COMP	Application Is Now Complete			0
7	03/31/2005		FLFEE	Payment of additional filing fee/Preexam			0
6	03/31/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	01/28/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	01/12/2005		L128	Cleared by L&R (LARS)			0
3	12/17/2004		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	12/01/2004		SCAN	IFW Scan & PACR Auto Security Review			0
1	11/18/2004		IEXX	Initial Exam Team nn			0
0.5	11/18/2004		EFILE	Filing date			0

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ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT & T WAY
BEDMINSTER NJ 07921

MAILED
JAN 24 2012
OFFICE OF PETITIONS

In re Application of :
Grannan et al. :
Application No. 10/993,404 :
Filed: November 19, 2004 : ON PETITION
Attorney Docket No. 19862.05 :
For: TOOL AND METHOD FOR MANAGED :
SUPPORT SERVICES FOR PCS AND OTHER :
NETWORKED DEVICES :

This is a decision on the petition under 37 CFR 1.181, filed December 20, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration 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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a reply to the March 16, 2010 non-final Office action, which set an extendable three month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on June 17, 2010. A Notice of Abandonment was mailed on September 28, 2010.

Petitioners assert that the March 16, 2010 was not received by practitioner because the failure of the USPTO to enter a power of attorney and change of correspondence address, filed on August 2, 2007, resulted in the March 16, 2010 non-final Office action being directed to an out-of-date address. Therefore petitioners request withdrawal of the holding of abandonment.

MPEP 402.07 states that a power of attorney by an assignee of the entire interest revokes all powers of attorney given by an application and prior assignees if the assignee establishes their right to take action as provided in 37 CFR 3.73(b). See 324.

MPEP Section 324 states that an assignee may establish a right to take action by submitting (1) documentary evidence of the chain of title from the original owner to the assignee and a

statement that the chain of title was, or currently is being, submitted for recordation or (2) submitting a reel and frame number where the assignment was recorded.

In the instant case, a Revocation and Power of Attorney, Change of Correspondence Address, and Appointment of New Power of Attorney executed by an authorized representative of the then-assignee and a 3.73(b) statement was filed on August 2, 2007. Unfortunately, neither document listed Application No. 10/993,404 nor Docket No. 1033-CP1033.

In short, the Office received a revocation/power of attorney/change of correspondence address and a 3.73(b) statement that did not identify this application. Therefore, the Office was not in error when it did not enter the requested changes and the March 16, 2010 non-final Office action was properly mailed to the correspondence address of record. The petition to withdraw the holding of abandonment due to non-receipt is dismissed.

An applicant is responsible for specifying a correct correspondence address. A delay caused by the failure on the part of the petitioners to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Petitioners are strongly encouraged to file a petition to revive under the unintentional standard of 137(b). 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).

The power of attorney/change of correspondence address filed January 16, 2012 has been entered and made of record. Please find enclosed a notice regarding the change in power of attorney.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/993,404	11/19/2004	Michael F. Grannan	19862.05

CONFIRMATION NO. 8956

POA ACCEPTANCE LETTER

84326
AT & T LEGAL DEPARTMENT - Toler
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT & T WAY
BEDMINSTER, NJ 07921

OC000000052120662

Date Mailed: 01/20/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/16/2012.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

In re Application of :
Grannan et al. :
Application No. 10/993,404 :
Filed: November 19, 2004 : ON PETITION
Attorney Docket No. 19862.05 :
For: TOOL AND METHOD FOR MANAGED :
SUPPORT SERVICES FOR PCS AND OTHER :
NETWORKED DEVICES :

This is a decision on the petition, filed March 7, 2012, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a reply to the March 16, 2010 non-final Office action, which set an extendable three month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on June 17, 2010. A Notice of Abandonment was mailed on September 28, 2010.

Petitioners have submitted an amendment in reply to the March 16, 2010 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 16, 2010 non-final Office action, and the $1,860.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2614 for consideration of the amendment, filed March 7, 2012.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of:	:
Giroud et al.	: ON APPLICATION FOR
Application No. 10/993427	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/22/2004	:
Atty. Docket No.:	:
06028.0066-00000	:

This letter is in response to the "NOTICE OF POSSIBLE ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION," filed June 11, 2010. The notice and request for review is properly treated as an Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b).

The application for patent term adjustment 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 three hundred thirty-four **(334)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On May 12, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred thirty-five **(335)** days.

On June 11, 2010, applicant timely submitted the present application for patent term adjustment[1]. Applicants direct the Office's attention to the filing of the Information Disclosure Statement ("IDS"), filed May 19, 2009, after the filing of a reply to a final Office action on May 18, 2009.

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.

[1] Office records show that the Issue Fee payment was received in the Office on July 28, 2010.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is three hundred thirty-four **(334)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10993427 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10993427

Application Filing Date	11/22/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	607
A Delays	607	PTO Manual Adjustment	-1
B Delays	0	Applicant Delay (APPL)	272
C Delays	0	Total PTA (days)	334

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
75	10/21/2010		P028	Adjustment of PTA Calculation by PTO		1	0
67	05/12/2010		MN/=.	Mail Notice of Allowance			0
66	05/10/2010		IREV	Issue Revision Completed			0
65	05/10/2010		DVER	Document Verification			0
64	05/10/2010		N/=.	Notice of Allowance Data Verification Completed			0
63	05/10/2010		EX.A	Examiner's Amendment Communication			0
62	05/10/2010		CNTA	Notice of Allowability			0
57	03/03/2010		FWDX	Date Forwarded to Examiner			0
58	02/03/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
56	02/03/2010	11/04/2009	A...	Response after Non-Final Action		91	54
55	02/03/2010		XT/G	Request for Extension of Time - Granted			0
54	08/04/2009		MCTNF	Mail Non-Final Rejection			0
53	08/03/2009		CTNF	Non-Final Rejection			0
49	05/28/2009		FWDX	Date Forwarded to Examiner			0
47	05/28/2009		FWDX	Date Forwarded to Examiner			0
45	05/28/2009		ABN9	Disposal for a RCE / CPA / R129			0
52	05/19/2009		IDSC	Information Disclosure Statement considered			0
51	05/19/2009		M844	Information Disclosure Statement (IDS) Filed			0
43	05/19/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
50	05/18/2009		C602	Oath or Declaration Filed (Including Supplemental)			0
48	05/18/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
46	05/18/2009	02/18/2009	RCEX	Request for Continued Examination (RCE)		89	41
44	05/18/2009		XT/G	Request for Extension of Time - Granted			0
42	05/18/2009		BRCE	Workflow - Request for RCE - Begin			0
41	11/18/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
40	11/17/2008		CTFR	Final Rejection			0
38	10/01/2008		FWDX	Date Forwarded to Examiner			0
39	08/26/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
37	08/26/2008	05/26/2008	A...	Response after Non-Final Action		92	35
36	08/26/2008		XT/G	Request for Extension of Time - Granted			0
35	02/26/2008		MCTNF	Mail Non-Final Rejection			0
34	02/19/2008		CTNF	Non-Final Rejection			0
26	12/03/2007		FWDX	Date Forwarded to Examiner			0
25	11/20/2007		ELC.	Response to Election / Restriction Filed			0
24	11/20/2007		XT/G	Request for Extension of Time - Granted			0
23	09/21/2007	01/22/2006	MCTRS	Mail Restriction Requirement	607		-1
22	09/17/2007		CTRS	Requirement for Restriction / Election			0
21	11/27/2006		C614	New or Additional Drawing Filed			0
20	11/27/2006		A.PE	Preliminary Amendment			0
19	10/27/2006		DOCK	Case Docketed to Examiner in GAU			0
27	04/19/2006		IDSC	Information Disclosure Statement considered			0
18	04/19/2006		RCAP	Reference capture on IDS			0
17.7	04/19/2006		M844	Information Disclosure Statement (IDS) Filed			0
17	04/19/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
16	04/08/2005		C.ADB	Correspondence Address Change			0
15	03/14/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	03/14/2005		DOCK	Case Docketed to Examiner in GAU			0
11	03/04/2005		WROIPE	Application Return from OIPE			0
10	03/04/2005		RDIPE	Application Return TO OIPE			0
9	03/04/2005		OIPE	Application Dispatched from OIPE			0
8	03/04/2005		COMP.	Application Is Now Complete			0
7	02/15/2005		ADDFLFEE	Additional Application Filing Fees			0
6	02/15/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	12/15/2004		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	12/07/2004		L194	Cleared by OIPE CSR			0
3	12/07/2004		CLSS	CASE CLASSIFIED BY OIPE			0
2	12/03/2004		SCAN	IFW Scan & PACR Auto Security Review			0
28	11/22/2004		IDSC	Information Disclosure Statement considered			0
14	11/22/2004		RCAP	Reference capture on IDS			0
13.7	11/22/2004		M844	Information Disclosure Statement (IDS) Filed			0
13	11/22/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
1	11/22/2004		IEXX	Initial Exam Team nn			0

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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

In re Patent No. 7,262,732	:	
Issue Date: August 28, 2007	:	
Application No. 10/993,732	:	DECISION ON PETITION
Filed: November 19, 2004	:	
Attorney Docket No. RDA-0008	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 25, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 29, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Joanne Hama at (571) 272-2911 or to the undersigned at (571) 272-7099.

The patent file is being forwarded to Files Repository.

David Bucci
Petitions Examiner
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.
10/993,916	11/19/2004	Kevin R. Driscoll	H0004947-1633	9986

89953 7590 01/27/2012
HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

EXAMINER
CHU, GABRIEL L

ART UNIT	PAPER NUMBER
2114	

NOTIFICATION DATE	DELIVERY MODE
01/27/2012	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):

patentservices-us@honeywell.com
docketing@fogglaw.com

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962-2245

In re Application of: Driscoll, et al.
Application No. 10/993,916
Attorney Docket No. H0004947-1633
Filed: November 19, 2004
For: CONMMUNICATION FAULT CONTAINMENT VIA INDIRECT DETECTION

SUA SPONTE
WITHDRAWAL OF HOLDING OF ABANDONMENT

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on November 30, 2011. The notice incorrectly indicated that the instant application was being held abandoned "in response to the decision by the Board of Appeals and Interferences (the Board) rendered on September 15, 2011 and because the period for seeking court review of the decision has expired ***and there are no allowed claims***". Reference to the Appeal Brief (page 1 thereof), mailed December 05, 2008, reveals that the claim 18 was indicated to be allowable.

In accordance with M.P.E.P. § 1214.06(II):

II. CLAIMS STAND ALLOWED

The appellant is not required to file a reply. The examiner issues the application or ex parte reexamination certificate on the claims which stand allowed. For paper files, a red-ink line should be drawn through the refused claims and the notion "Board Decision" written in the margin in red ink.

For example, if the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application or ex parte reexamination certificate with claim 3 only.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to pending status. The application will then be forwarded to the Examiner of record for prompt action on the merits, in accordance with this decision.

Inquiries to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Quality Assurance Specialist, Technology Center 2100
Computer Architecture, Software, and Information Security

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Judson Craig Hally, et al.	:	
Application No. 10/993,976	:	DECISION GRANTING PETITION
Filed: November 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-2171US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2173 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/1/10

TO SPE OF : ART UNIT 2464 (2400)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/993,978 Patent No.: 7,719,960

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

All changes are in compliance. Claim 17 is now claim 19 with all the limimations.

/DeWanda Samuel/

SPE Ricky Ngo **ART UNIT** 2464

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/12/11

TO SPE OF : ART UNIT 2478

SUBJECT : Request for Certificate of Correction for Appl. No.: 10994007 Patent No.: 7693962

CofC mailroom date: 10/05/11

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
You can fax the Director's/SPE response to 571-273-3421

Note: **Should the changes to claim 23 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 2478

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

JUL 22 2011

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Patent No. 7,038,180	:	
Issue Date: May 2, 2006	:	ON PETITION
Application No. 10/994,515	:	
Filed: November 23, 2004	:	
Atty. Docket No. 064026-0014		

This is a decision on the petition under 37 CFR 1.378(c), filed April 29, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **GRANTED**.

The patent expired on May 3, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mailing date of this decision.

Petitioner has appointed a representative to conduct all business before the Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications should be mailed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

for Anthony Knight
Director
Office of Petitions

cc: Collard & Roe, P.C.
1077 Northern Boulevard
Roslyn, New York 11576

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 01/12/2011

Applicant	: Naoyuki Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7616250	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/994,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **770** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Application of
Paul Adam

Application No. 10994859

Filed: November 22,2004

Attorney Docket No. 24069-003

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 10-NOV-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	10/994,859	Confirmation Number	7719	Filing Date	2004-11-22
Attorney Docket Number (optional)	24069-003	Art Unit	3635	Examiner	Painter
First Named Inventor	Paul Adam				
Title of Invention	MODULAR BLOCK SYSTEM				

Attention: Office of Petitions
An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Paul		Adam	

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 format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

● (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/david h. chervitz/	Date (YYYY-MM-DD)	2011-11-10
Name	David H. Chervitz	Registration Number	32820

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

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 Fr eedom 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 indivi duals.

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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JOSEPH A. TABE
SUITE 2010
11700 OLD COLUMBIA PIKE
SILVER SPRING, MD 20904

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of Joseph A. Tabe Application No. 10/995,093 Filed: November 24, 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 June 30, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 17, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 6, 2009. Accordingly, the date of abandonment of this application is September 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

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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STEPHEN COLLINS
P.O. BOX 635
MANOTICK ON K4M 1A6 CA CANADA

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Application of	:	
COLLINS	:	
Application No. 10/995,137	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. AP1038US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 2, 2010. A Notice of Abandonment was mailed October 14, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (2).

With respect to item (1): The petition filed September 28, 2011, was accompanied by an issue fee of $755, however, as of September 26, 2011, the fee increased, the current issue fee is $870 (small entity), the balance of $115 is due. The reply cannot be considered proper until the complete issue fee is submitted.

With respect to item (2): A review of the Office record shows that the petition in the above-identified application was accompanied by a payment of $810 for the petition fee. As of September 26, 2011 a new fee schedule was posted and new fees should have been applied to any petition fee filed after the date listed above. The current petition fee is $930 (small entity), an additional $120 is due. No consideration on the merits can be given until the required fee deficiency is remitted.

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 Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
OCT 07 2011
OFFICE OF PETITIONS

THOMAS ADAMS
P.O. BOX 11100, STATION H
OTTAWA ONTARIO K2H 7T8 CANADA

In re Application of	:	
COLLINS	:	
Application No. 10/995,137	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. AP1038US		FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 8, 2011.

The request is **NOT APPROVED**.

The Request to Withdraw cannot be approved because the request indicates the practitioners are to be withdrawn by registration numbers, however, the attorneys of record were appointed through use of a Customer Number. Any future request should include the proper designation by which the practitioners were appointed to assist the Office in review and to expedite processing.

All future communications from the Office will continue to be directed to the address indicated below and the power of attorney will remain with the practitioners associated with Customer Number 33361 until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STEPHEN COLLINS
P.O. BOX 635
MANOTICK ON K4M 1A6 CA CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STEPHEN COLLINS
P.O. BOX 635
MANOTICK ON K4M 1A6 CA CANADA

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Stephen COLLINS	:	
Application No. 10/995,137	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. AP1038US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 1, 20, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 2, 2010. A Notice of Abandonment was mailed October 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 payment of the issue fee of $755 and publication fee of $300; (2) the petition fee of $810; and (3) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN COLLINS
P.O. BOX 635
MANOTICK ON K4M 1A6 CA CANADA

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Stephen COLLINS	:	
Application No. 10/995,137	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. AP1038US		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 17, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Thomas Adams on behalf of the attorneys of record associated with Customer No. 33361.

The attorneys of record associated with Customer No. 33361 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record is the address indicated above until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: THOMAS ADAMS
P.O. BOX 11100, STATION H
OTTAWA ONTARIO K2H718 CANADA

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
10/995,137	11/24/2004	Stephen Collins	AP1038US

CONFIRMATION NO. 7629

POWER OF ATTORNEY NOTICE

OC000000051408632

33361
ADAMS PATENT & TRADEMARK AGENCY
P.O. BOX 11100, STATION H
OTTAWA, ON K2H 7T8
CANADA

Date Mailed: 12/12/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/17/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,660,362 :
Issued: February 9, 2010 : LETTER REGARDING
Application No. 10/995,212 : PATENT TERM ADJUSTMENT
Filed: November 24, 2004 :
Attorney Docket No. 20235US02 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on June 10, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1189 days to 1190 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

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 November 24, 2007 and ends on August 26, 2009, the day before the RCE was filed, and the B delay considering the 321 days of overlap is 641 days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 1189 days.

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 decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of :
Cosmin Nicu Dini, et al. :
Application No. 10/995,453 : ON PETITION
Filed: November 22, 2004 :
Attorney Docket No.: 50325-0944 :

This is a decision in response to the petition under 37 CFR 1.314, filed May 2, 2011, to defer issuance of the above-identified patent application.

Petitioners request a deferral period pursuant to MPEP 1306.01 in order to allow sufficient time for the Examiner to acknowledge an Information Disclosure Statement (IDS), including PTO Form 1449, filed April 25, 2011. However, a review of the record indicates that an acknowledgement of the IDS was made by the Supplemental Notice of Allowability mailed May 6, 2011.

Accordingly, the petition is **DISMISSED AS MOOT**.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/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
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EMULEX DESIGN & MANUFACTURING CORPORATION
C/O MORRISON & FOERSTER LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES CA 90013

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Patent No. 7096296	:	
Issue Date: 08/22/2006	:	
Application Number: 10/995456	:	ON PETITION
Filing Date: 11/22/2004	:	
Attorney Docket Number:	:	
491442009410	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 26, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 23, 2010, for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Mail Date: 08/05/2010

Applicant	: Brenda Daos	: DECISION ON REQUEST FOR
Patent Number	: 7661142	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/995,611	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **915** 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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Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland CA 94612-0250

MAILED

JUN 03 2011

OFFICE OF PETITIONS

In re Application of:	:	
Nguyen et al.	:	
Application No. 10/995636	:	DECISION DISMISSING
Filing or 371(c) Date: 11/22/2004	:	PETITION UNDER
Title of Invention:	:	37 CFR § 1.183
Attorney Docket Number: IGT1P146/P000973-002	:	

This Decision is in response to the "Petition Under 37 C.F.R. § 1.183 Requesting that Waiver be Granted Regarding the Requirement that Binh Nguyen Sign a 37 CFR 1.131 declaration for the Above-Referenced Patent Application," filed May 3, 2011.

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 1.183."

The application as-filed identified three inventors as the inventive entity: Binh Nguyen, James Stockdale and Bryan Wolf. A final Office action was mailed on January 7, 2011. In response to the Office action, Applicant files the present petition and an Amendment and Declarations Under 37 C.F.R. § 1.131, executed by inventors James Stockdale and Bryan Wolf only. Applicant files the present petition and states that the inventor Binh Nguyen refuses to execute the Declaration. In support of this assertion, applicant provides the Declaration of Robert R. Blair, Jr., who states that he left a voicemail for inventor Nguyen indicating that a draft of the application had been sent to inventor Nguyen for review prior to the reference's priority date and asking inventor Nguyen to sign an adeclaration swearing begind the reference. Mr. Blair, Jr., provides further that in a telephone call from inventor Nguyen, inventor Nguyen left a voicemail stating, inter alia, that he would have to decline the opportunity to sign the paperwork.

The MPEP 715.04, Swearing back of Reference, Affidavit or Declarant Under 37 CFR 1.131, provides in relevant part

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

This section states that a party qualified under 37 CFR 1.42, 1.43 or 1.47 may make the affidavit when it is not possible to produce the affidavit or declaration of the inventor, and that waiver of the signature requirement of the unavailable inventor may be demonstrated by proof similar to that required in a petition under 37 CFR 1.47. In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. In this instance, Applicant provides that inventor Nguyen refuses to sign the declaration swearing behind the reference.

Analysis

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

Petitioners' showing is deficient in that proof of inventor Nguyen's refusal to sign the declaration swearing behind the reference has not been made.[2]

As to refusal to sign the declaration, the MPEP provides:

> 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 non-signing 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.

MPEP 409.03(d).

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[2] MPEP 409.03(d).

A review of the copy of the application papers and letter to inventor Nguyen reveal that the copy of the application was sent to inventor Nguyen in August, 2004. Applicant has not presented evidence that a copy of the application papers, along with a declaration swearing behind the reference, were sent to the last known address of the non-signing inventor in this instance. Applicant must present a copy of the application papers and the declaration swearing behind the reference to the nonsigning inventor. Applicant is also cautioned that receipt of an application transmitted via email must be demonstrated by Applicant before a petition may be granted. While receipt of an email may be confirmed by the sender, receipt of an email attachment may not be confirmed by the sender. Applicant must present a copy of the application papers to the nonsigning inventor. The MPEP provides

> 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.

MPEP 409.03(d).

The last known address of the inventor should be the last known address at which the inventor customarily receive mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

Conclusion

The petition is dismissed without prejudice. Applicant must present a copy of the application and declaration to the nonsigning inventor in order to demonstrate refusal of the inventor to sign the declaration swearing behind the reference.

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

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
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Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland CA 94612-0250

MAILED
AUG 12 2011
OFFICE OF PETITIONS

In re Application of:	:	
Nguyen et al.	:	
Application No. 10/995636	:	DECISION GRANTING
Filing or 371(c) Date: 11/22/2004	:	PETITION UNDER
Title of Invention:	:	37 CFR § 1.183
Attorney Docket Number: IGT1P146/P000973-002	:	

This Decision is in response to the "Request for Reconsideration of Petition Filed Under 37 C.F.R. §1.183 on August 2, 2011, Requesting that Waiver be Granted Regarding the Requirement that Binh Nguyen Sign a 37 CFR 1.131 Declaration for the Above-Referenced Patent Application," filed August 2, 2011.

The petition is **granted.**

The application as-filed identified three inventors as the inventive entity: Binh Nguyen, James Stockdale and Bryan Wolf. A final Office action was mailed on January 7, 2011. In response to the Office action, Applicant filed a petition, Amendment and Declarations Under 37 C.F.R. § 1.131, executed by inventors James Stockdale and Bryan Wolf only.

The petition was dismissed in a Decision mailed June 3, 2011, for failing to meet the requirements of a grantable petition under 37 CFR 1.183..

Applicant files the present renewed petition and provides that the inventor Binh Nguyen was presented with, inter alia, a copy of the present application as published, and a copy of a 37 CFR 1.131 Declaration for inventor Nguyen's signature.

The MPEP 715.04, Swearing back of Reference, Affidavit or Declarant Under 37 CFR 1.131, provides in relevant part

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint

> inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

This section states that a party qualified under 37 CFR 1.42, 1.43 or 1.47 may make the affidavit when it is not possible to produce the affidavit or declaration of the inventor, and that waiver of the signature requirement of the unavailable inventor may be demonstrated by proof similar to that required in a petition under 37 CFR 1.47. In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. In this instance, Applicant asserts that the inventors refuse to join in the Declaration.

Analysis and Conclusion

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

Petitioner has shown that the non-signing inventor, Binh Nguyen, refuses to sign the 131 Declaration.

The petition is granted.

The application is being referred to Technology Center Art Unit 3718 for processing of the reply to the Office action, including the response 131 Declaration signed by inventors James Stockdale and Bryan Wolf, and for continued examination 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 08/04/2010

Applicant	: Takashi Fujioka	: DECISION ON REQUEST FOR
Patent Number	: 7647067	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/995,854	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1450** 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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Date: December 12, 2011

Gene M. Garner, II
Staas & Halsey LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

Patent No: 7,974,840 B2
Application No.: 10/996,062
Applicants: Junghoe Kim, et al.
Issued: July 5, 2011
Title: **METHOD AND APPARATUS FOR ENCODING/DECODING MPEG-4 BSAC AUDIO BITSTREAM HAVING ANCILLARY INFORMATION**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322.

Inspection of the application file for the patent reveals that column 15, line13 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
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571)-272-0460

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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300 S. WACKER DRIVE
32ND FLOOR.
CHICAGO IL 60606

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,785,850	: DECISION ON REQUEST FOR
GOYAL et al.	: RECONSIDERATION OF
Issue Date: August 31, 2010	: PATENT TERM ADJUSTMENT
Application No. 10/996,174	: AND
Filed: November 23, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 04-999	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed September 17, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fourteen (714) 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 fourteen (714) 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 **seven hundred fourteen (714) 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 : 7,785,850 B2

DATED : Aug. 31, 2010 **DRAFT**

INVENTOR(S) : GOYAL 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 594 days

Delete the phrase "by 594 days" and insert – by 714 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

Decision Date : July 26,2011

In re Application of :

Paul Krueger

Application No : 10996200

Filed : 23-Nov-2004

Attorney Docket No : 174-00024C

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed July 26,2011 , 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	10996200
Filing Date	23-Nov-2004
First Named Inventor	Paul Krueger
Art Unit	3623
Examiner Name	ANDRE BOYCE
Attorney Docket Number	174-00024C
Title	AUTOMATED NOTIFICATION OF PART REVISIONS FOR OUTSIDE SUPPLIERS

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 are not due.

☒ 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 04-15-2011

○ Drawing corrections and/ or other deficiencies are attached.

☒ 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	/denver s. bisignano/
Name	Bisignano, Denver
Registration Number	60693

DAC

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	10996200
Filing Date	23-Nov-2004
First Named Inventor	Paul Krueger
Art Unit	3623
Examiner Name	ANDRE BOYCE
Attorney Docket Number	174-00024C
Title	AUTOMATED NOTIFICATION OF PART REVISIONS FOR OUTSIDE SUPPLIERS

OPAP IAP5 JUL 2 6 2011 PATENT & TRADEMARK OFFICE

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 :

07/27/2011 INTEFSW 00001519 10996200
01 FC:1453 1620.00 OP

Issue Fee and Publication Fee are not due.

☒ 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 04-15-2011

○ Drawing corrections and/ or other deficiencies are attached.

☒ 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	/denver s. bisignano/
Name	Bisignano, Denver
Registration Number	60693

O P A P
JUL 2 6 2011
PATENT & TRADEMARK OFFICE
IAP5
O P A P
JUL 2 6 2011
PATENT & TRADEMARK OFFICE
IAP5

UNITED STATES 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 26,2011

In re Application of:

Paul Krueger

Application No: 10996200

Filed: 23-Nov-2004

Attorney Docket No: 174-00024C

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed July 26,2011 , 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

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)
7258236	2007-08-21	10996262	2004-11-23	WPTH/0002

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	/Gero G. MCCLELLAN/	Date (YYYY-MM-DD)	2012-04-02
Name	Gero G. McClellan	Registration Number	44227

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. 7258236
Issue Date: August 21,2007
Application No. 10996262
Filed: November 23,2004
Attorney Docket No. WPTH/0002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 2,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID B. WALLER
505 NORTH WILLOWSPRING DRIVE
ENCINITAS, CA 92024

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of
David B. Waller
Application No. 10/996,372
Filed: November 23, 2004
Attorney Docket No. WAL.001.CIP2

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 April M. Wise at (571) 272-1642. 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 3781 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.

/dab/
David Bucci
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
10/996,372	11/23/2004	3781	395	WAL.001.CIP2	9	3

CONFIRMATION NO. 1126

CORRECTED FILING RECEIPT

David B. Waller
505 North Willowspring Drive
Encinitas, CA 92024

OC000000043469565

Date Mailed: 09/13/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David B. Waller, Encinitas, CA;

Power of Attorney:
David Waller--43978

Domestic Priority data as claimed by applicant

This application is a CIP of 09/970,998 06/21/2000 ABN
which is a DIV of 09/337,451 06/21/1999 PAT 6,220,476

Foreign Applications

If Required, Foreign Filing License Granted: 01/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/996,372**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Lid for beverage container

Preliminary Class

220

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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Woo-Shik Kim et al :
Application No. 10/996,448 :
Filed: November 26, 2004 :
Attorney Docket No. 1901.1369

ON PETITION

This is a decision on the petition, filed September 20, 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 July 1, 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 2624 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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AUG 09 2010

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

In re Application of	:	
WEHNES, Jeffrey C. et al.	:	
Application No. 10/996,595	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. **30362.5**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to HAYNES AND BOONE, LLP has been revoked by the assignee of the patent application on July 07, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **THE LAW OFFICE OF JAMES E. HARRIS**
P.O. BOX 872557
VANCOUVER WA 98687

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 Office of James E. Harris
20320 SE Fernridge Dr.
Camas, WA 98607

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of :
Jeffrey C. Wehnes, et. al. :
Application No. 10/996,595 :
Filed: November 23, 2004 :
Attorney Docket No. 30362.5 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed March 24, 2011, requesting to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond to the final Office action mailed June 23, 2010. A Notice of Abandonment was mailed January 3, 2011.

A review of the record discloses that a non-final Office action was mailed on October 2, 2008. On February 10, 2009, the Office received a change of correspondence address/power of attorney to Customer Number 27683 (Haynes & Boone). On April 2, 2009, a response to the Office action was timely received with a three months extension of time from James E. Harris. On April 9, 2009, a Notice of Abandonment was mailed to Haynes & Boone. In response, a petition under 37 CFR 1.181 was filed by James Harris on June 15, 2009. A decision granting the petition was mailed on July 20, 2009. On October 27, 2009, a non-final Office action was mailed to Haynes & Boone. On February 26, 2010, a Request to Withdraw as Attorney under 37 CFR 1.36, by Haynes & Boone, was filed. On March 29, 2010, a timely response along with a two months extension of time was filed by James E. Harris. On April 26, 2010, the request under 37 CFR 1.36 was not approved, since petitioner failed to make all the required certifications. On June 18, 2010, a request under 37 CFR 1.36 from Haynes & Boone was filed. On June 23, 2010, a final Office action was mailed to Haynes & Boone. On July 7, 2010, a "Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address" to Customer Number 69032 was filed. On July 16, 2010, the power of attorney to Haynes & Boone was revoked and power of attorney to Customer Number 69032 was accepted. On August 9, 2010, the request under 37 CFR 1.36 filed on June 18, 2010, was dismissed as moot since the assignee revoked power of attorney to Haynes & Boone on July 7, 2010. On January 3, 2011, a Notice of Abandonment was mailed. On January 11, 2011, the Notice of Abandonment was returned to the Office as undeliverable. The present petition was filed on March 24, 2011.

Petitioner asserts "The PTO was incorrect in mailing the June 23, 2010, Office Action to Haynes and Boone with no notice to me, given the incorrect reversion of correspondence address to Haynes and Boone in 2009, the multiple attempts by Haynes and Boone to remedy the error prior to June 23, 2010, including the effective withdrawal noting that correspondence was to be directed to me, and the fact that no correspondence was ever received from anyone but me(other than the two Haynes and Boone attempts to withdraw). Applicant requests that the holding of abandonment be reviewed and reversed, and that the Application and Response be returned to the Examiner for further consideration."

Petitioner's argument has been considered, but not persuasive. On June 15, 2009, petitioner was placed on Notice by Haynes & Boone that no further action would be taken and that appropriate steps should be taken to change the correspondence address[1]. In the decision mailed July 20, 2009, petitioner was placed on notice that the address given in the petition filed July 20, 2009, was different from the correspondence address of record, and if appropriate, a change of address should be filed[2]. Despite the fact that petitioner states mail was improperly addressed from the United States Patent and Trademark Office (USPTO) to Haynes & Boone, such as the Office action mailed October 27, 2009, a response was timely received from petitioner on March 29, 2010. Thus, it can be implicit that a copy of the Office action mailed June 23, 2010, was sent to petitioner from Haynes & Boone, in which petitioner may have overlooked and unintentionally failed to respond.

Further, it is noted that the request under 1.36 filed by Haynes and Boone on February 26, 2010, did not contain all the required certifications, and therefore, the request was not approved. Petitioner should note that a request to withdraw as attorney under 37 CFR 1.36 is effective when approved rather than when received. Therefore, since no action was taken on the request to withdraw under 37 CFR 1.36 filed on June 18, 2010, until August 9, 2010, the Office action mailed June 23, 2010, was properly addressed to the address of record, which was that of Haynes & Boone at Customer Number 27683. Once petitioner became aware, in 2009, that the correspondence address of record was incorrect, a power of attorney from the client should have been obtained and received by the USPTO immediately rather than waiting for Haynes & Boone to take appropriate action[3].

In view of the above, the present petition is **dismissed**.

ALTERNATIVE VENUE

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

---

[1] See Exhibit C filed as evidence on June 15, 2009, which is a letter to James Harris from Haynes & Boone stating "As this file has been transferred to you, Haynes and Boone has closed this matter in its docketing database and will take no further action. Haynes and Boone assumes you will take immediate action to provide a change of address to the appropriate parties."

[2] The decision informed petitioner that the correspondence address and power of attorney was changed to Haynes and Boone on February 9, 2009. The decision also informed petitioner that a courtesy copy of the decision was being mailed and if appropriate, a change of correspondence address should be filed; since thereafter, all future communications from the Office would be directed solely to the address of record unless otherwise instructed.

[3] The Power of Attorney filed July 7, 2010, should have been obtained and filed sometime back in 2009.

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.

(2) The petition fee as set forth in 37 CFR 1.17(m), $810 for a small entity or $1,620 for large 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 can be found on the Web site at www.uspto.gov form (PTO/SB/64).

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled as 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 regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries related to this decision may 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

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AUG 26 2010

OFFICE OF PETITIONS

FELDMAN LAW GROUP, P.C.
220 EAST 42ND STREET
SUITE 3304
NEW YORK, NY 10017

In re Application of
Dave Lapa, et al.
Application No. 10/996,881
Filed: November 24, 2004
Attorney Docket No. RJENK35.002AUS

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 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 cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they (1) have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment, nor have they certified that they (2) have delivered to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled or notified the client of any responses that may be due and the time frame within which they must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.
All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVY LAPA
12 PALMANLAAN
ANTWERPEN 2020 BELGIUM

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OFFICE OF PETITIONS

FELDMAN LAW GROUP, PC
220 EAST 42ND STREET
SUITE 3304
NEW YORK, NY 10017

In re Application of Dave Lapa, et al. Application No. 10/996,881 Filed: November 24, 2004 Attorney Docket No. RJENK35.002AUS	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request was signed by Stephen E. Feldman on behalf of all attorneys of record who are associated with customer No. 76943. All attorneys/agents associated with the Customer Number 76943 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed June 8, 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: DAVE LAPA
12 PALMANLAAN
ANTWERPEN 2020 BELGIUM

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
10/996,881	11/24/2004	Dave Lapa	RJENK35.002AUS

CONFIRMATION NO. 1132

POWER OF ATTORNEY NOTICE

76943
FELDMAN LAW GROUP, P.C.
220 East 42nd Street, Suite 3304
NEW YORK, NY 10017

OC000000044056531

Date Mailed: 10/18/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/10/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAR 08 2011

OFFICE OF PETITIONS

Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley NY 11560

In re Application of
Jakobsson, et al.
Application No. 10/996,997
Filed: November 24, 2004
Atty. Dkt. No.: 4414-39

: DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 23, 2010.

The Notice of Abandonment mailed October 27, 2010 indicates that the application is abandoned for failure to timely submit an appeal brief in response to the Notice of Appeal filed March 10, 2010.

Petitioners assert the Pre-Brief Appeal Conference Decision mailed April 28, 2010 advised that no further action was required by applicant and that the application was being returned to the examiner for mailing of a new Office action.

Petitioners arguments have been carefully considered and found persuasive.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Group Art Unit 3621 for further processing consistent with the Pre-Brief Appeal Conference Decision mailed April 28, 2010.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MAILED

SEP 28 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,687,265	:	DECISION ON REQUEST
Brissette et al.	:	FOR
Issue Date: March 30, 2010	:	RECONSIDERATION OF
Application No. 10/997,202	:	PATENT TERM ADJUSTMENT
Filed: November 24, 2004	:	and
Atty Docket No. 10287-101001 /	:	NOTICE OF INTENT TO ISSUE
MGH 2131	:	CERTIFICATE OF CORRECTION

This is a decision on the petition pursuant to 37 C.F.R. § 1.705(d), filed on June 1, 2010,[1] requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred and twenty-five (425) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred and fifty-four (354) days is **GRANTED to the extent indicated herein**.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[2]

This patent issued on March 30, 2010, with a patent term adjustment of 355 days.

The Office has determined that the patent term adjustment for the above-identified patent is **354 days**.

---

[1] It is noted that May 30, 2010 fell on a Sunday, and May 31, 2010 fell on a federal holiday.
[2] Petition, page 4.

The Office agrees with Petitioner that this patent issued three years and 857 days after the filing of the application. However, the B-delay does not total 857 days. A notice of appeal was filed on September 9, 2009, and a notice of allowance was mailed on November 18, 2009. The 71 days of the over three year period consumed by appellate review, beginning on September 9, 2009 and ending on November 18, 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 354 (26 days of examination delay plus 760 B-delay (857 over three years minus the aforementioned excluded 71 days minus 26 days of overlap) minus 432 days of applicant delay) days, not 425 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 37 C.F.R. § 1.136.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred and fifty-four (354) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,687,265 B2

DATED : **March 30, 2010** **DRAFT**

INVENTOR(S) : Brissette 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 355 days

Delete the phrase "by 355 days" and insert – by 354 days--

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Shay Glenn, LLP
2755 Campus Drive
Suite 210
San Mateo, CA 94403

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Cameron D. Hinman et al.	:	
Application No. 10/997,372	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. 10112-708.201	:	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 August 17, 2010.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 66854 have been revoked by the assignee of the patent application on September 3, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Patent Department
Intuitive Surgical Operations, Inc.
1266 Kifer Road, Bldg., 101
Sunnyvale, CA 94086

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 22, 2010

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10997397 Patent No.: 7492815

CofC mailroom date: Apr. 6, 2009

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

_____
Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Corrections do not change scope of the claims.

[signature]
12/22/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

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JONATHAN JAECH
C/O O'MELVENY & MYERS LLP
400 SOUTH HOPE STREET
LOS ANGELES CA 90071-2899

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Patent No. 6,954,659 :
Issue Date: 11 October, 2005 :
Application No. 10/997,421 : DECISION ON PETITION
Filed: 23 November, 2004 :
Attorney Docket No. 418510-999-CJ1 :

This is a decision on the petition filed on 19 January, 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.

BACKGROUND

Patent No. 6,954,659 (the '659 patent) issued on 11 October, 2005. The first maintenance fee could have been paid during the period from 11 October, 2008, through midnight 11 April, 2009, or, with a surcharge, during the period from 12 April, 2009, through midnight 11 October, 2009. Accordingly, the patent expired after midnight 11 October, 2009, for failure to pay timely the first maintenance fee.

The instant petition was filed on 19 January, 2010. Because the petition was submitted within twenty-four months after the six-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).

Patent No. 6,954,659
Application No. 10/997,421

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* credit card—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.

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
JONATHAN JAECH
CONNOLLY BOVE LODGE & HUTZ
P.O. BOX 2207
WILMINGTON, DE 19899

[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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/997,516	11/24/2004	Alvin Hunsberger JR.	054054/315996	1100

97928 7590 03/02/2012
Zebra/Alston & Bird
101 S. Tryon Street
Suite 4000
Charlotte, NC 28280-4000

EXAMINER
NGUYEN, LAM S

ART UNIT	PAPER NUMBER
2853	

NOTIFICATION DATE	DELIVERY MODE
03/02/2012	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):

jonathan.thomas@alston.com
IP_Legal@zebra.com
USPTOIncoming@alston.com

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ZEBRA/ALSTON & BIRD
101 S. Tryon Street
Suite 4000
Charlotte, NC 28280-4000

In re Application of:	:	
Alvin Hunsberger, Jr.	:	Decision on Petition
Serial No.: 10/997,516	:	For Withdrawal
Filed: November 24, 2004	:	Of Finality of Office Action
Attorney Docket No.: **051051/315996**	:	

This is a decision on petition, filed December 9, 2009, requesting that the finality of the Final Office action of June 9, 2009 be withdrawn. Petitioner asserts that the Office action of June 9, 2009 contains new grounds of rejection not necessitated by an amendment and, thus, it is improper to make the action final. The petitioner asserts the final rejection was instead necessitated by remarks in the Appeal Brief of March 6, 2009.

A review of the file record indicates that subsequent to the petition, the application has normal prosecution history through the filing of an RCE. Therefore, the petition is moot and is hereby DISMISSED.

Petitioner further requests a refund of the fees for RCE. The petitioner assert that filing of the RCE of December 9, 2009 was necessitated by the June 9, 2009 Office Action. However the filing of an RCE is always non-conditional and there is nothing in the file history that shows the filing of the RCE was in error. The request for a refund of the fees for RCE is hereby DENIED.

Joseph Thomas, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 50325-0917	
Application Number: 10/997,616	Filing Date (or 371(b) or (f) Date): November 23, 2004
Patent Number: 7,664,879	Issue Date: February 16, 2010
First Named Inventor: Alex Yiu-Man Chan	
Title: Caching Content and State Data at a Network Element	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 08/31/2010

Applicant	: Alex Yiu-Man Chan	: DECISION ON REQUEST FOR
Patent Number	: 7664879	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/997,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **217** 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.:20110718

DATE : July 18, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,460,834

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DWAYNE BOST/
Supervisory Patent Examiner.Art Unit 2617

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/9/09 **Paper No.:** —

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/997690 Patent No.: 7491402 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Patricia A. Duffy/ Acting SPE 1645 11-9-2010

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/08/10

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10997762 Patent No.: 7771966

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

Robert M
SPE

1652
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

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Patent No. 7,831,519	:	DECISION ON APPLICATION
Brian T. Kean	:	FOR RECONSIDERATION OF
Issue Date: Nov. 9, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/997,770	:	AND NOTICE OF INTENT TO
Filing Date: Nov. 23, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No.	:	CORRECTION
020375-042610US	:	

This is a decision on the petition filed on January 10, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred seventy-three (373) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **one hundred eighty-three (183) days**.

Patentee disputes the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued, not including any time consumed by continued examination of the application requested by the applicant under § 132(b). 35 U.S.C. 154(b)(1)(B)(i).

In this instance, the "over three year period" is 453 days, beginning on November 24, 2007, the date after the date that is three years after the filing date of the application and ending on February 18, 2010, the day before the date a request for continued examination (RCE) was filed.

However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 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 240 days, beginning on April 23, 2007, the date of filing of the notice of appeal and ending on December 18, 2007, the subsequent date of the mailing of the non-final Office action. Thus, B delay is 213 (453 - 240) days (not 214 days). Considering the overlapping period of 33 days, the non-overlapping period of "B" delay is 180 (213 - 33) days.

Patentee discloses that the period of adjustment for Office delay pursuant to 37 CFR 1.704(b) in connection with the mailing of the Office action mailed on December 18, 2007, should be 32 days, rather than 117 days. A review of the record reveals that an appeal brief in compliance with 37 CFR 41.37 was filed on July 16, 2007. The Office action mailed on November 19, 2007, was mailed four months and 32 days after the day after the date an appeal brief in compliance with 37 CFR 41.37 was filed. Accordingly, the 117 day period of Office delay will be removed, and a 32 day period of Office delay will be entered.

Patentee further states that a period of reduction of 23 days for applicant delay for the filing of an appeal brief on July 16, 2007, 23 days after the two-month period set by the notice of appeal filed on April 23, 2007, should be entered. Patentee is reminded that a notice of appeal is not an Office action within the meaning of § 1.704(b). Accordingly, the filing of the appeal brief on April 23, 2007, is not considered a failure

to engage in reasonable efforts to conclude processing or examination of the application and no reduction for applicant delay is warranted.

Accordingly, the patent term adjustment is 183 days (260 days of A delay + 213 days of B delay - 33 days of overlap - 257 days of applicant delay).

The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 hundred eighty-three (183) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

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 : 7,831,519 B2

DATED : **Nov. 9, 2010** **DRAFT**

INVENTOR(S) : Kean

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 214 days.

Delete the phrase "by 214 days" and insert – by 183 days--

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): 10/997,865	Patent Number (if applicable):
First Named Inventor: Masahiko OGINO	Title of Invention: IMPRINTING MACHINE AND IMPRINTING METHOD

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 /Leonid D. Thenor/	Date May 20, 2011
Name (Print/Typed) Leonid D. Thenor	Practitioner Registration Number 39,397

Note: *Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

■ *Total of 1 forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Ogino et al.	:	
Application No. 10/997,865	:	DECISION ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 500.44515X00	:	

This is a decision on the request filed May 20, 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 February 28, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1744 for re-mailing the Office action of February 28, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of
Toshikazu Houmura, et al.
Application No.: 10/998,036
Filed: November 29, 2004
Attorney Docket No.: 1720.1011

ON PETITION

This is a decision on the petition, filed January 7, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.
+
The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2614 for further processing of the request for continued examination under 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **7739676**
Ser. No. : **10/998069**
Inventor(s) : **KARR, MICHAEL E.**
Issued : **06/15/2010**
Title : **FUNCTION VALUES IN COMPUTER PROGRAMMING LANGUAGES HAVING DYNAMIC TYPES AND OVERLOADING**
Docket No. : **MWS-067CNRCE2**

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.

In regards to the alleged error(s) on the Title Page under "Other Publications", the patent is printed in accordance with the Notice of References Cited filed on 5-14-08.

In view of the foregoing, your request, in this matter, is hereby denied.

A Certificate of Correction will be issued to correct the remaining error(s) noted in your request.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

Kevin J. Canning
LAHIVE & COCKFIELD, LLP
One Post Office Square
Boston, Massachusetts 02109-2127

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)
7238261	2007-07-03	10998228	2004-11-26	BRFZ 200014US01

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	/Richard M. Klein/	Date (YYYY-MM-DD)	2012-02-20
Name	Richard M. Klein	Registration Number	33000

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. 7238261
Issue Date: July 3,2007
Application No. 10998228
Filed: November 26,2004
Attorney Docket No. BRFZ 2 00014

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 20,2012 ,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 20,2012 .
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.

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: YUNG0101PUS	Patent Number: 7665141
Filing Date (or 371(b) or (f) Date): Nov-24-2004	Issue Date: Feb-16-2010
First Named Inventor: YOUNG, GHADA	
Title: ORIGIN AND CUSTODY OF COPIES FROM A STORED ELECTRONIC RECORD VERIFIED PAGE BY PAGE	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /John E Nemazi/	Date 13-Aug-2010
Name (Print/Typed) John E. Nemazi	Registration Number 30,876

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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Brooks Kushman P.C. / LA
1000 Town Center
22nd Floor
Southfield, MI 48075

Mail Date: 09/07/2010

Applicant	: Ghada Young	: DECISION ON REQUEST FOR
Patent Number	: 7665141	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/998,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1256** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAY 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Patricia L. Yingst	:	DECISION ON PETITION
Application No. 10/998,399	:	TO WITHDRAW
Filed: November 29, 2004	:	FROM RECORD
Attorney Docket No. **149-0132US**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

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) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/14/11

TO SPE OF : ART UNIT 1716

SUBJECT : Request for Certificate of Correction for Appl. No 10/998,420.: 7638002

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

❑ **Approved**	**All** changes apply.
X Approved in Part	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: **Item numbers 2-6 are oaky to be entered and item numbers 1 and 7 (the first and the last ones) need to be replaced as shown below:**

Page 2, Col. 1, U.S. PATENT DOCUMENTS should read include:

--2006/0115590 A1 6/2006 Suzuki et al.—

Col. 16, line 40, "trays include" should read --trays includes--.

The above replacement corrections were confirmed by attorney Kristi L. Davidson on 4/15/2011 via phone.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-03-11

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10998469 Patent No.: 7616176

CofC mailroom date: 04-26-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

APPROVED
By aeisen at 7:35 pm, Apr 01, 2012

SPE /ALEXANDER EISEN/ **Art Unit** 2629

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 20 2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Kazuyuki Shiiba et al.	:	DECISION ON PETITION
Application No. 10/998,562	:	UNDER 37 CFR §1.181
Filed: November 30, 2004	:	
For: DECELERATION CONTROL APPARATUS AND METHOD FOR A VEHICLE		

This is a decision on applicant's petition under 37 CFR 1.181 filed June 27, 2008 requesting consideration of the Information Disclosure Statement filed June 25, 2008.

The petition is **DISMISSED AS MOOT.**

A review of the file record revealed that the examiner considered the Information Disclosure Statement as indicated in the miscellaneous communication to applicant mailed July 24, 2008.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Thomas Black at (571) 272-6956.

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
Telephone No.: (571)-272-5250

tb/lm: 8/26/10

LM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 18, 2011

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No.: 10998895 Patent No.: 7370613

CofC mailroom date: Sep. 9, 2008

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

_____
Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER

AU 3747

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11-29-10**

TO SPE OF : ART UNIT **2114**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/998,935 Patent No.: **7779293**

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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER
SPE

2114
Art Unit

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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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/998,951	11/30/2004	Thierry Marnay	SYNT-0615	2914

53443 7590 09/08/2010
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

EXAMINER
MILLER, CHERYL L

ART UNIT	PAPER NUMBER
3738	

MAIL DATE	DELIVERY MODE
09/08/2010	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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United States Patent and Trademark Office
P.O. Box 1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:	
MARNAY, THIERRY et al.	:	
Appl. No.: 10/998,951	:	DECISION ON PETITION
Filed: Nov. 30, 2004	:	Under 37 CFR 1.59
Atty. Docket No: SYNT-0615	:	
For: INTERVERTEBRAL IMPLANT		

This is a decision on the petition under 37 CFR 1.59(b), filed March 17, 2010 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) has been charged to Deposit Account in accordance with the petition.

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.

In the petition, petitioner requests that the information submitted on March 17, 2010 is protective order material for examiner's consideration under MPEP § 724. The material filed on March 17, 2010, was not identified by any names or titles. The number of pages of the protective order material also was not disclosed.

In the petition, 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 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. Currently, the document in question has been separately stored in an artifact file folder for the remainder of prosecution.

Questions concerning this decision should be directed to Special Programs Examiner Henry C. Yuen at 571-272-4856.

Decision held in abeyance.

Angela D. Sykes, Director
Technology Center 3700

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of
Shen et al.
Application No.: 10/999171
Filing or 371(c) Date: 11/29/2004
Attorney Docket Number: 16606-005003

ON PETITION

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed March 31, 2010.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed September 30, 2009. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on December 31, 2009. A Notice of Abandonment was mailed April 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee; and (3) a proper statement of unintentional delay[1].

The application is being referred to Technology Center Art Unit 1633 for processing of the Amendment/reply filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

[1] Petitioner's statement of unintentional delay varies from the Rule, 37 CFR 1.78(a)(2)(ii); however, this statement has been accepted that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. If Petitioner's cannot make this statement, they should notify the PTO immediately.

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: 10914-24	
Application Number: 10/999,195	Filing Date (or 371(b) or (f) Date): 11/29/2004
Patent Number: 7,666,905 B2	Issue Date: 02/23/2010
First Named Inventor: Cecil Pace-Asciak	
Title: Compositions Comprising Hepoxilin Analogs and Their Use in the Treatment of Cancer	

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 /Matthew A. Molloy/	Date 08/17/2010
Name (Print/Typed) Matthew A. Molloy	Registration Number 56,415

***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

DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

Mail Date: 09/14/2010

Applicant	: Cecil Pace-Asciak	: DECISION ON REQUEST FOR
Patent Number	: 7666905	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/999,195	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **115** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: January 17, 2012

Timothy W. Riffe
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

Patent No: 8,066,700 B2
Applicant: Yasushi Ito, et al.
Application No.: 10/999,230
Issued: November 29, 2011
Title: **CARTILAGE TREATMENT PROBE**

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.

Respecting the alleged error on title page 2 column 1, (6,066,134) comparison of the printed patent with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request in this matter is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificate of Correction Branch.

A certificate of correction will be issued to correct the remaining errors mentioned in your request

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(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
www.uspto.gov

MAILED
OCT 21 2010
OFFICE OF PETITIONS

ERIC H. WILLIAMS
2123 SOUTHLAND ROAD
GWYN OAK, MD 21207

Patent No. 7,017,197	:	
Application No. 10/999,466	:	
Filed: December 1, 2004	:	ON PETITION
Issued: March 28, 2006	:	
Attorney Docket No. BLT 1417	:	

This is a decision on the petition under 37 CFR 1.378(c), filed on August 26, 2010, and supplemented on October 18, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 29, 2010 for failure to pay the 3 ½ maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 08 2011

OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

In re Patent No. 7,295,320	:	
Issue Date: November 13, 2007	:	
Application No. 10/999,532	:	DECISION ON PETITION
Filed: November 30, 2004	:	
Attorney Docket No. HO-P02489US1	:	

This is a decision on the petition under 37 CFR 3.81(b), filed February 23, 2011.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-17-11

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/999875 Patent No.: 7479994

CofC mailroom date: 08-08-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE _____ Art Unit 2622

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 2/8/2011

C of C mailroom date 1/31/2011

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/999894 Patent No.: 7756172 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

MINSUN OH HARVEY
PRIMARY EXAMINER

AU 2828

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHEEF & STONE, L.L.P.
500 N. AKARD
SUITE 2700
DALLAS TX 75201

MAILED
JAN 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,716,629	:	
Issue Date: May 11, 2010	:	
Application No. 10/999,911	:	NOTICE
Filed: November 29, 2004	:	
Attorney Docket No. 2556.206	:	

This is a notice regarding your request, December 14, 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

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)
7,157,144	2007-01-02	11/000,161	2004-11-30	UPR-3900

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	/Roberto J Rios Cuevas/	Date (YYYY-MM-DD)	2011-01-12
Name	Roberto J Rios Cuevas	Registration Number	56145

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. 7157144
Issue Date: January 2,2007
Application No. 11000161
Filed: November 30,2004
Attorney Docket No. UPR-3900

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 12,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 12,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/28/10

TO SPE OF : ART UNIT 2467

SUBJECT : Request for Certificate of Correction for Appl. No.: 11000286 Patent No.: 7369573

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: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Pankaj Kumar/ 2467

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/28/10

TO SPE OF : ART UNIT 2467

SUBJECT : Request for Certificate of Correction for Appl. No.: 11000286 Patent No.: 7369573

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

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: The request for corrections via certificate is approved.

The corrections do not change the scope of the claims/invention.

Prenell Jones (x23180)
Art Unit 2467

/Pankaj Kumar/
SPE AU2467

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

SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM, WA 98225-2412

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of
J. Vance Israel
Application No. 11/000,384
Filed: December 1, 2004
Attorney Docket No. P216509

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 8, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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 so notify the Office.

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 1791 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