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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

MAILED
SEP 23 2010
OFFICE OF PETITIONS

In re Application of Marco Johannes Hubertus Peters and Jean Vosters Application No. 11/000,494 Filed: December 1, 2004 Attorney Docket No. 5957-49902 Title: METHOD TO ROUTE AN INCOMING CALL, TELECOMMUNICATION TERMINAL, AND DESTINATION TERMINAL SELECTION ARRANGEMENT	DECISION ON PETITIONS PURSUANT TO 37 C.F.R. §§ 1.182 and 1.183

This is in response to the petition pursuant to 37 C.F.R. § 1.183, filed on July 26, 2010, which is being treated as a petition requesting the waiver of 37 C.F.R. §§ 1.67 and 1.175 where they require that a supplemental declaration be executed by a named inventor.[1] This is also a decision on the petition filed on August 26, 2010, requesting expedited handling of the aforementioned petition pursuant to 37 C.F.R. § 1.183.

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**. The petition pursuant to 37 C.F.R. § 1.183 is being accorded expedited handling.

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED**.

The present application is for the reissue of U.S. Patent number 6,590,969, which issued on July 8, 2003, from application number 09/456,482.

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1 Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 C.F.R. § 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 C.F.R. § 1.67. See MPEP 603.

It is noted that both the written consent to the reissue by the assignee and a statement under 37 C.F.R. § 3.73(b) were included with this petition.

On December 1, 2004, the present reissue application was filed, identifying Marco Johannes Hubertus Peters and Jean Vosters as joint inventors. A fully-executed reissue declaration was included on filing. On March 26, 2010, a final Office action was mailed, which included an indication that a supplemental reissue declaration would be required. This petition pursuant to 37 C.F.R. § 1.183 was submitted four months later, along with a one-month extension of time to make timely the response.

RELEVANT REGULATIONS AND PORTION OF THE MPEP

37 C.F.R. § 1.42 sets forth, *in toto*:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

37 C.F.R. § 1.63(a)(1) sets forth, *in toto*:

> (a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:
> (1) Be executed, i.e., signed, in accordance with either § 1.66 or § 1.68. There is no minimum age for a person to be qualified to sign, but the person must be competent to sign, i.e., understand the document that the person is signing;

37 C.F.R. § 1.183 sets forth, *in toto*:

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

37 C.F.R. § 1.175(a) sets forth, *in toto*:

> (a) The reissue oath or declaration in addition to complying with the requirements of § 1.63, must also state that:
> (1) The applicant believes the original patent to be wholly or partly inoperative or invalid by reason of a defective

> specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, stating at least one error being relied upon as the basis for reissue; and
> (2) All errors being corrected in the reissue application up to the time of filing of the oath or declaration under this paragraph arose without any deceptive intention on the part of the applicant.

MPEP § 409.03(c) sets forth, *in toto*:

> 37 CFR 1.47 should not be considered an alternative to 37 CFR 1.42 or 35 U.S.C. 117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor. In re Application Papers Filed September 10, 1954, 108 USPQ 340 (Comm'r Pat. 1955). See 37 CFR 1.42 and MPEP § 409.01. However, 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)).

ANALYSIS

Along with this petition, Petitioner has submitted, *inter alia*: the last known address of Mr. Peters, an indication that Mr. Vosters is deceased, and a supplemental reissue declaration that has been executed by a representative of the Assignee of record.

This petition cannot be granted, as Petitioner has not asserted, much less established, the existence of an extraordinary situation such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by the living joint inventor and the legal representative of the deceased joint inventor.

On renewed petition, **Petitioner will need to assert the existence of an extraordinary situation, such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by the living joint inventor and the legal representative of the deceased joint inventor.**

Assuming arguendo that Petitioner has asserted the existence of an extraordinary situation such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by the living joint inventor and the legal representative of the deceased joint inventor, this petition cannot be granted as the

record does not support a finding that this assertion has been established. A discussion follows.

While Rule 1.47(b) is not directly applicable to the current set of facts, it does provide a similar method for rectifying situations involving an inventor who cannot be found and a legal representative of a deceased joint inventor who refuses to sign a reissue declaration. As such, a Rule 1.47(b) analysis will be applied to determine whether an extraordinary situation is present, such that justice requires the waiver of Rules 1.42 and 1.63(a)(1). The applicable elements are as follows:

(1) Petitioner must provide a statement of the last known address of each inventor/legal representative;

(2) Petitioner must provide either
   a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the legal representative for review and proof that the legal representative refuses to join in the application or
   b) proof that the legal representative cannot be found or reached after diligent effort;

(3) proof that the applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;

(4) proof of irreparable damage, and;

(5) a supplemental declaration which complies with 37 C.F.R. § 1.175.

Petitioner has satisfied the third requirement above. Requirements (1) - (2) and (4) - (5) have not been satisfied.

Regarding the first requirement, Petitioner has included the last known address of Mr. Peters, however the petition does not contain **the last known address of the legal representative of joint inventor Vosters**.

Regarding the second requirement, as it applies to Mr. Peters, Petitioner has asserted that this non-signing inventor cannot be located.[2] Petitioner has not submitted adequate proof that diligent efforts have been made to locate this non-signing inventor. *As Petitioner has set forth that the non-signing joint inventor cannot be found or reached, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* However the petition is silent as to any search that might have been performed for Mr. Peters. **There is no indication that Petitioner attempted to verify the address of this non-signing inventor or to determine his forwarding address, and to send the complete application papers to that address for consideration by the inventor.**[3] Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, and the Internet. If this search is sufficiently broad so as to provide a reasonable opportunity to locate this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof required under 37 C.F.R. § 1.47 that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Regarding the second requirement, as it applies to Mr. Vosters, Petitioner has asserted that Mr. Vosters is deceased, and has established that two e-mails were sent to his widow, who Petitioner believes to be his legal representative. However, the record does not support a finding that a complete copy of the reissue application was sent to the last-known address of Mr. Vosters' legal representative. Where a refusal of the legal representative of a deceased inventor to sign the reissue application papers is alleged, the Office requires the petitioner to establish that a *bona fide* attempt was made to mail a complete copy of the reissue application, which entails the specification, claims, any drawings, and oath or declaration.[4] However, this petition is silent as to any presentation of the complete reissue application to the legal representative of the deceased inventor that might have occurred.

Since it has not been shown that a complete copy of the reissue application was sent to the legal representative of the deceased inventor, one cannot refuse to sign something which one has not

2 Petition, page 1.
3 See MPEP § 409.03(d).
4 Id.

seen. A refusal by a legal representative of a deceased inventor to sign a reissue oath or declaration when the legal representative has not been presented with the reissue application papers - does not itself suggest that he/she is refusing to join the application unless it is clear that he/she understands exactly what he/she is being asked to sign and refuses to accept the reissue application papers. It is reasonable to require that the legal representative of the deceased inventor be presented with the reissue application papers (or that a *bona fide* effort be made to do so) before the reissue declaration is accepted without her signature, since such a procedure ensures that the legal representative of the deceased inventor is apprised of the reissue application to which the oath or declaration is directed.[5]

Before filing the renewed petition, Petitioner is to mail a complete copy of the reissue application to the legal representative of the deceased inventor, and provide her with a reasonable period of time to respond. Petitioner should note that any statement (submitted to the Office) that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on second-hand knowledge are not normally accepted.

Regarding the fourth requirement above, no proof of irreparable damage has been submitted.[6] **A statement by Petitioner that the filing is necessary to preserve the rights of the parties** would be sufficient to address this requirement.

Regarding the fifth requirement above, the supplemental reissue declaration that was submitted with this petition cannot be accepted, as it fails to comply with 37 C.F.R. § 1.64(b), in that it fails to list the name of the legal representative of the deceased joint inventor, it fails to "state that the person is a legal representative," and it fails to contain the "citizenship, residence, and mailing address of the legal representative."

A new supplemental reissue declaration is required.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not**

5 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
6 See MPEP § 409.03(g).

permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.183." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any such renewed petition should indicate in a prominent manner that the attorney handling this matter is Senior Attorney Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile transmission (FAX).[9] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[11] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

9-22-10
Kenpet8/

7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
9 (571) 273-8300 - please note that this is a central facsimile number.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
11 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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FEB 08 2011

OFFICE OF PETITIONS

In re Application of :
Marco Johannes Hubertus Peters :
and Jean Vosters :
Application No. 11/000,494 :
Filed: December 1, 2004 :
Attorney Docket No. 5957-49902 :
Title: METHOD TO ROUTE AN :
INCOMING CALL, :
TELECOMMUNICATION TERMINAL, AND :
DESTINATION TERMINAL SELECTION :
ARRANGEMENT :

DECISION ON RENEWED PETITION
PURSUANT TO
37 C.F.R. § 1.183

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.183, filed on November 18, 2010, requesting the waiver of 37 C.F.R. §§ 1.42 and 1.63(a)(1).

The renewed petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED**.

The present application is for the reissue of U.S. Patent number 6,590,969, which issued on July 8, 2003, from application number 09/456,482.

On December 1, 2004, the present reissue application was filed, identifying Marco Johannes Hubertus Peters and Jean Vosters as joint inventors. A fully-executed reissue declaration was included on filing. On March 26, 2010, a final Office action was mailed, which included an indication that a supplemental reissue declaration would be required. An original petition pursuant to 37 C.F.R. § 1.183 was submitted on July 26, 2010, along with a one-month extension of time to make timely the response.

Along with the original petition, Petitioner included the last known address of Mr. Peters, a statement that Mr. Vosters is deceased, a supplemental reissue declaration that has been executed by a representative of the assignee of record, the

written consent to the reissue application by the assignee, and a statement under 37 C.F.R. § 3.73(b). The original petition was dismissed via the mailing of a decision on September 12, 2010.

The third page of the decision on the original petition stated that the original petition could not be granted, "as Petitioner has not asserted, much less established, the existence of an extraordinary situation such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by the living joint inventor and the legal representative of the deceased joint inventor."

The above-described assertion is not contained within this renewed petition. On February 4, 2011, the Office's attorney handling this matter attempted to telephone Petitioner so as to provide him with the opportunity to introduce this statement into the record via the electronic filing of a supplement to this petition. However, the telephone number which Petitioner has listed on this petition is not a direct-dial number, and the attorney handling this matter was unable to locate Petitioner in the firm's directory (each time that Petitioner's name was entered, an automated response of "no names match your entry" was received).

On second renewed petition, **Petitioner will need to assert the existence of an extraordinary situation, such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by the living joint inventor and the legal representative of the deceased joint inventor.**

It is noted that, with this renewed petition, Petitioner has included the last known address of the legal representative of joint inventor Vosters,[1] proof that Mr. Peters cannot be located,[2] proof that a complete copy of the reissue application was sent to the last-known address of Mr. Vosters' legal representative[3] and that he has refused to execute the same,[4] proof that the Applicant has sufficient proprietary interest in

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1 Supplemental reissue declaration included with the renewed petition. See also petition, page 2, statement of facts submitted with the renewed petition, paragraph 29, and exhibit AA submitted with the renewed petition.
2 Statement of facts submitted with the renewed petition, paragraph 36, and exhibit AA submitted with the renewed petition.
3 Statement of facts submitted with the renewed petition, paragraphs 27-29 and exhibits X, Z, and AA submitted with the renewed petition.
4 Exhibits AA submitted with the renewed petition.

the subject matter to justify the filing of the application, and an acceptable supplemental reissue declaration. To date, each of the four requirements set forth on the fourth page of the decision on the original petition has been satisfied. It follows that **on second renewed petition, all that Petitioner must provide is the statement as discussed on the third page of this decision.**

The time period for filing a second renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.183." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any such second renewed petition should indicate in a prominent manner that the attorney handling this matter is Senior Attorney Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile transmission (FAX).[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[9] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300: please note that this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 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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AUSTIN TX 78767-0398

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MAY 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Marco Johannes Hubertus Peters	:	
and Jean Vosters	:	
Application No. 11/000,494	:	DECISION ON SECOND
Filed: December 1, 2004	:	RENEWED PETITION PURSUANT TO
Attorney Docket No. 5957-49902	:	37 C.F.R. § 1.183
Title: METHOD TO ROUTE AN	:	
INCOMING CALL,	:	
TELECOMMUNICATION TERMINAL, AND	:	
DESTINATION TERMINAL SELECTION	:	
ARRANGEMENT	:	

This is in response to the second renewed petition pursuant to 37 C.F.R. § 1.183, filed on February 10, 2011, requesting the waiver of 37 C.F.R. §§ 1.42 and 1.63(a)(1).

The second renewed petition pursuant to 37 C.F.R. § 1.183 is **GRANTED**.

The present application is for the reissue of U.S. Patent number 6,590,969, which issued on July 8, 2003, from application number 09/456,482.

On December 1, 2004, the present reissue application was filed, identifying Marco Johannes Hubertus Peters and Jean Vosters as joint inventors. A fully-executed reissue declaration was included on filing. On March 26, 2010, a final Office action was mailed, which included an indication that a supplemental reissue declaration would be required. An original petition pursuant to 37 C.F.R. § 1.183 was submitted on July 26, 2010, along with a one-month extension of time to make timely the response.

Along with the original petition, Petitioner included the last known address of Mr. Peters, an indication that Mr. Vosters is deceased, a supplemental reissue declaration that has been

executed by a representative of the Assignee of record, and the written consent to the reissue by the Assignee and a statement under 37 C.F.R. § 3.73(b). The original petition was dismissed via the mailing of a decision on September 23, 2010.

A renewed petition pursuant to 37 C.F.R. § 1.183 was filed on November 18, 2010, along with the last known address of the legal representative of joint inventor Vosters,[1] proof that Mr. Peters cannot be located,[2] proof that a complete copy of the reissue application was sent to the last-known address of Mr. Vosters' legal representative[3] and that she has refused to execute the same,[4] proof that the Applicant has sufficient proprietary interest in the subject matter to justify the filing of the application, and an acceptable supplemental reissue declaration.

The renewed petition was dismissed via the mailing of a decision on February 8, 2011, which indicated, *in pertinent part*:

> On second renewed petition, **Petitioner will need to assert the existence of an extraordinary situation, such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by the living joint inventor and the legal representative of the deceased joint inventor.**
>
> **…on second renewed petition, all that Petitioner must provide is the statement as discussed on the third page of this decision.**
>
> Decision on renewed petition, pages 2 and 3. Emphases included.

With this second renewed petition, Petitioner has provided the required statement. The electronic record supports a finding that Petitioner has both asserted and established the existence of an extraordinary situation, such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by the living joint inventor and the legal representative of the deceased joint inventor.

The second renewed petition is granted to the extent that the supplemental reissue declaration of July 26, 2010 may be entered, despite the fact that the requirement that both the living joint

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1 Supplemental reissue declaration included with the renewed petition. See also petition, page 2, statement of facts submitted with the renewed petition, paragraph 29, and exhibit AA submitted with the renewed petition.
2 Statement of facts submitted with the renewed petition, paragraph 36, and exhibit AA submitted with the renewed petition.
3 Statement of facts submitted with the renewed petition, paragraphs 27-29 and exhibits X, Z, and AA submitted with the renewed petition.
4 Exhibits AA submitted with the renewed petition.

inventor and the legal representative of the deceased joint inventor sign the declaration has not been satisfied. **This is not a decision on the merits of the declaration.**

The Technology Center will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Hiram H. Bernstein/

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration

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

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LEE & HAYES, PLLC
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SPOKANE WA 99201

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DEC 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Thaddeus C. Pritchett, et al.	:	
Application No. 11/000,611	:	DECISION ON PETITION
Filed: December 1, 2004	:	
Attorney Docket No. MS1- 0434USC1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed October 28, 2010, which set a shortened statutory period for reply of one (1) month. The period for reply was NOT extendable under 37 CFR 1.36(a). Accordingly, the application became abandoned on November 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 correcting the specification, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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OCT 18 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,995,758
Shapiro
Issue Date: August 9, 2011
Application No. 11/000,637
Filed: November 30, 2004
Attorney Docket No. 07844-06730001/P627
Title: Family of Encryption Keys

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed under 37 CFR 1.705(d) on October 7, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand nine hundred seventy-seven (1,977) days.

Patentee also states that the delay for the submission of a response on October 6, 2008, should have been accorded a delay of 28 days instead of the presently accorded 30 days as the three month reply period fell over a weekend.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Patentee's argument requesting that a 28 day reduction instead of the 30 day reduction for the submission a response to the Office action on June 6, 2008 is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated

after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Thus, Patentee's request for reconsideration of said 30 day reduction is dismissed as untimely.

Further 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 view thereof, no adjustment to the patent term will be made.

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.

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

Charlema Grant
Attorney Advisor
Office of Petitions

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of	:	
EDWARD K.Y. JUNG ET AL.	:	
Application No. 11/000,667	:	DECISION ON PETITION
Filed: December 1, 2004	:	TO WITHDRAW
Attorney Docket No. **SE1-0087-US**	:	FROM RECORD
	:	

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

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 49651 has been revoked by the assignee of the patent application on February 11, 2009. Therefore, petitioner no longer has power in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 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 the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Constellation Law Group, PLLC
P.O. Box 220
Tracyton WA 98393

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CHICAGO IL 60661

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,590,059
Issued: September 15, 2009
Application No. 11/000,731
Filed: December 1, 2004
Attorney Docket No. 15747US02

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

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 indicated on the above-identified patent be corrected from 1091 days to 1092 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 December 1, 2007 and ends on March 1, 2009, the day before the RCE was filed, and the B delay considering the 145 days of overlap is 456 days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 311 days. As such, the patent term adjustment is 1091 days (813 "A delay" days minus 456 "B delay" days minus 145 overlap days minus 33 Applicant delay days), not 1092 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

Paper No.: _____

DATE : 01/06/11

TO SPE OF : ART UNIT 2113

SUBJECT : Request for Certificate of Correction for Appl. No.: 11000734 Patent No.: 7849351

CofC mailroom date: 12/23/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Director's/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Robert Beausoliel/ 2113

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
OCT 26 2010
OFFICE OF PETITIONS

In re Application of
Sung et al.
Application No. 11/000,932
Filed: December 2, 2004
Attorney Docket No. 1793.1608

DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed April 30, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action, which was mailed on December 24, 2008. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on February 24, 2009. In response to the amendment an Advisory Action was mailed on March 17, 2009 indicating the amendment submitted on February 24, 2009 did not place the application in condition for allowance. Accordingly, this application became abandoned on March 24, 2009. A Notice of Abandonment was mailed on March 30, 2010.

Petitioners contend that they were informed that the finality of the final Office action would be withdrawn. Petitioner maintains that based upon the interview summary statement from the examiner there were no pending rejection, thus there were no appropriate filing that could have been made by petitioner.

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

Pursuant to petitioners' request deposit account no. 19-3935 will be charged the $540.00 petition fee.

As to item (1), a response within the meaning of 37 CFR 1.113 to the final Office action has not been submitted. 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).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a). The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 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). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioners' argument has been considered, but it is not persuasive. Although the Interview Summary indicated that the final Office action would be withdrawn, the withdrawal did not occur while the application was pending. The finality of the Office action must be withdrawn while the application is still pending. As 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See MPEP 711.03(c).

Therefore, the application is properly held abandoned.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR

1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 petition fee.

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

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of
Sung et al.
Application No 11/000,932
Filed: December 2, 2004
Attorney Docket No. 1793.1608

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 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)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 25, 2009. A Notice of Abandonment was mailed on March 30, 2010.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted on November 23, 2010 was subsequent to the maximum extendable period for reply, the fees will be refunded to deposit account 19-3935.

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

This application is being referred to Technology Center AU 2624 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.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
DEC 02 2011
OFFICE OF PETITIONS

In re Application of	:	
David B. Wagner	:	
Application No. 11/000,993	:	ON PETITION
Filed: December 2, 2004	:	
Attorney Docket No. 1287.43067X00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465 and the submission required by 37 CFR 1.114; (2) the petition fee of $930; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3711 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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Douglas E. Redstone
4809 Clairemont Drive #255
San Diego CA 92117

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of :
Redstone :
Application No. 11/001,150 :
Filed: November 30, 2004 :
Attorney Docket No. N/A :
For: NETWORK RADIO-DEVICE AND SYSTEM FOR AUDIO LISTENING AND BROADCASTING USING A REAL-TIME TRANSMISSION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to reply to the non-final Office action, mailed February 19, 2008, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) being obtained and no reply being filed, this application became abandoned on May 20, 2008. A Notice of Abandonment was mailed on October 7, 2008.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (2) above.

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $810.00. A review of Office records indicates that petitioner has not paid this fee in full. Petitioner paid only $25.00.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Petitioner should submit the $785.00 balance due on the petition fee promptly.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Douglas E. Redstone
4809 Clairemont Drive #255
San Diego CA 92117

MAILED

AUG 11 2011

OFFICE OF PETITIONS

In re Application of :
Redstone :
Application No. 11/001,150 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket No. N/A :
For: NETWORK RADIO-DEVICE AND SYSTEM FOR AUDIO LISTENING AND BROADCASTING USING A REAL-TIME TRANSMISSION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 15, 2011 and supplemented on July 18, 2011, July 20, 2011, July 21, 2011, July 25, 2011, and July 27, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to reply to the non-final Office action, mailed February 19, 2008, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) being obtained and no reply being filed, this application became abandoned on May 20, 2008. A Notice of Abandonment was mailed on October 7, 2008.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (2) above.

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $810.00. A review of Office records indicates that petitioner has not paid this fee in full. Petitioner has paid only $275.00.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Petitioner should submit the $535.00 balance due on the petition fee promptly. Petitioner is reminded that his reply should be in compliance with 37 CFR 1.111. Typically, applicants file a formal amendment in response to non-final Office actions. Petitioner may wish to contact the Inventors Assistance Center at 1-800-786-9199 for **general** information concerning amendment practice. The Inventors Assistance Center cannot answer questions concerning the details of a specific patent application or provide legal advice.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Womble Carlyle Sandridge & Rice PLLC
Attention: IP Docketing
P.O. Box 7037
Atlanta GA 30357-0037

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application :
Que :
Application No. 11/001,346 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: December 1, 2004 :
Dkt. No.: S305 1230.1 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed February 24, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 494 days, not 70 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. Applicant also advises of a reduction due to a post-allowance submission under 37 CFR 1.704(c)(10).

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, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NUMBER 007131
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO IL 60606

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Bill Sappington	:	
Application No. 11/001,577	:	RESPONSE TO PETITION
Filed: November 30, 2004	:	
Attorney Docket No. 007131.01025	:	
Patent No. 7,873,568	:	

This is a response to the petition entitled "Petition under 37 CFR 1.182 and, in the alternative under 37 CFR 1.183", received on May 19, 2011, requesting that the Office use the six (6) Replacement Sheets (Figures 8A-8F), in place of the corresponding figures in (1) the specific drawing sheets (15-20) that formed part of the Letters Patent; (2) any electronic image of the Letters Patent, and (3) the patent application of the associated file wrapper (electronic or otherwise). The petition is being treated as a petition under 37 CFR 1.182 to substitute Replacement Sheets (Figs. 8A-8F) for drawing sheets (15-20) in the patent and a petition to waive the provisions of 37 CFR 1.59 that prohibit the original specification from being expunged and expunge the original drawings (Figs. 8A-8F) from the above identified application.

The petition under 37 CFR 1.182 is **granted**.

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

Petitioner asserts that proprietary business records are present in some of the drawings and that the modifications to the drawings in no way relate to the understanding of the invention and as such the Office should replace the six (6) drawings in the Letters Patent and in the file wrapper with the six (6) Replacement Sheets.

37 CFR 1.59(a)(2) states:

> Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

However, MPEP 724.05 IV explains that this provision of 37 CFR 1.59(a)(2) may be waived under 37 CFR 1.183 where an extraordinary situation exits in which justice requires the requested expungement.

The presence of the personal identifying information such as the name, account information and social security number of an individual in the original drawings, represents an extraordinary situation in which justice requires the requested expungement. Therefore, the petition under 37 CFR 1.183 is granted and the original drawings will be expunged from the record and replaced by the substitute drawings filed with the petition. Therefore, the petition under 37 CFR 1.183 is granted and the drawing sheets (15-20) in the patent will be replaced with the Replacement sheets (Figs. 8A-8F) via a certificate of correction.

The official record for the above identified application is maintained as an electronic Image File Wrapper (IFW) and there is no paper record from which the information can be physically removed. The original drawings (Figs. 8A-8F) filed November 30, 2004 will be "closed" in the electronic IFW and removed from the listing of publicly available documents. The petition filed May 19, 2011 will remain on the record since it does not contain confidential information.

As a condition of this favorable treatment petitioner is required to maintain the material in question during the enforceable life of any patent arising from this application, or any patent claiming benefit of this application.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. See 35 U.S.C. § 41 (a)(7). The required $400 fee for the petition under 37 CFR 1.182 petition has been paid. The required $400 fee for the petition under 37 CFR 1.183 petition has been charged to petitioner's deposit account # 19-0733.

Telephone inquiries concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Robert W. Bahr
Senior Patent Attorney
Acting Associate Commissioner
for Patent Examination Policy

If any fees are due, the Director is authorized to debit deposit account number 19-0733 in the appropriate amount.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Dated: May 19, 2011
1100 13th Street, N.W., Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001

By: /Christopher R. Glembocki/
Christopher R. Glembocki
Registration No. 38,800

05/24/2011 LDIEP1 00000003 190733 11001577
01 FC:1462 400.00 DA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/21/2012

TO SPE OF : ART UNIT 2158 - ALI. Mohammad (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/001630 Patent No 8104428

CofC mailroom date: _____

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

571-272-8680 _____

Thank You For Your Assistance

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

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

Comments: Approved.

/Jacob F. Bétit/ — SPE

2158 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:-----

DATE : September 02, 2010

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7428022

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:

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/28/11

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction for Appl. No.: 11001702 Patent No.: 8034790

CofC mailroom date: 11/22/11

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]

Note: **Okay to enter.**

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: _____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

Newsome, Lamonte

From: Woitach, Joseph
Sent: Wednesday, February 15, 2012 11:10 AM
To: Newsome, Lamonte
Subject: RE: 11001702
Attachments: SPE's Reponse 9-19-11.doc

Okay to enter.

From: Newsome, Lamonte
Sent: Tuesday, January 17, 2012 10:18 AM
To: Woitach, Joseph
Subject: 11001702

3rd Request

From: Newsome, Lamonte
Sent: Tuesday, January 03, 2012 4:17 PM
To: Woitach, Joseph
Subject: 11001702

2nd Request

From: Newsome, Lamonte
Sent: Monday, November 28, 2011 10:34 PM
To: Woitach, Joseph
Subject: 11001702

Please review the attached document.

Examiner/SPE:

- Read the request from the attorney/applicant dated ___11/22/11_____
  - Print out the IMIS and indicate your approval, approval in part (please indicate what is denied and what is approved), or denial of the request and sign
  - Send the IMIS for scanning under the code COCX
  - Send me an email indicating that you've sent the COCX and I will look for your decision.

Thank you, I'm looking forward to hearing from you.

Lamonte M. Newsome

Certificate of Corrections

571-272-3421 (Voice)

571-273-3421 (Fax)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,163,008	:	
Issue Date: January 16, 2007	:	
Application No. 11/001,716	:	NOTICE
Filed: December 2, 2004	:	
Attorney Docket No. NPS-PT020.1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on March 11, 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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 08/04/2010

Applicant	: Jean-Philippe Vasseur	: DECISION ON REQUEST FOR
Patent Number	: 7646719	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/001,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1440** 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

In re Patent No. 7278189
Issue Date: October 9,2007
Application No. 11001825
Filed: December 2,2004
Attorney Docket No. TE11

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

This is a decision on the electronic petition, filed January 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 January 2,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7278189	2007-10-09	11001825	2004-12-02	TE11

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	/Themi Anagnos/	Date (YYYY-MM-DD)	2012-01-02
Name	/Themi Anagnos/	Registration Number	47388

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/16/10

TO SPE OF : ART UNIT 3773

SUBJECT : Request for Certificate of Correction for Appl. No.: 11001866 Patent No.: 7594923

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: The changes regarding Column 20, lines 10 and 15; Column 21, lines 33 and 39; and Column 22, lines 40, 42, and 46; do not apply.

Formatted: Indent: Left: 88 pt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

(Jackie) Tan-Uyen T. Ho

Digitally signed by (Jackie) Tan-Uyen T. Ho
DN: cn=(Jackie) Tan-Uyen T. Ho, c=US, o=Tech Center 3700, ou=3731, email=jackie.ho@uspto.gov
Reason: approval
Date: 2010.07.29 08:02:11 -04'00'

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/21/10

TO SPE OF : ART UNIT 1786

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/001893 Patent No.: 7776421

CofC mailroom date: 12/7/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

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

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

Comments: Changes approved

/D. Lawrence Tarazano/ — **SPE**

1786 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
NOV 25 2011
OFFICE OF PETITIONS

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

In re Patent No. 7,257,425	:	
Issue Date: August 14, 2007	:	ON PETITION
Application No. 11/001,911	:	
Filed: December 2, 2004	:	

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 application.

The petition is **GRANTED**.

The patent expired on August 15, 2011 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period 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.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
APR 18 2011
OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of	:	
TOMAI, et al	:	
Application No. 11/001,979	:	DECISION ON PETITION
Filed: September 2, 2004	:	
Docket No. 59028US010	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 25, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) 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 $1110 extension of time fee submitted with the petition on February 22, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No.13-3723.

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

This application is being referred to Technology Center AU 1628 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/002,144	12/03/2004	Toshiya Iwasaki	262753US0	8508

22850 7590 02/18/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHEUNG, WILLIAM K

ART UNIT	PAPER NUMBER
1762	

NOTIFICATION DATE	DELIVERY MODE
02/18/2011	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.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

2/18/2011

wk

In re application of
Iwasaki et al.
Serial No. 11/002,144
Filed: December 03, 2004
For: **PROCESS FOR PREPARING A WATER-BASED PIGMENT DISPERSION**

DECISION ON PETITION

This is a response to withdraw the abandonment of this application and is being considered as a PETITION UNDER RULE 37 C.F.R. 1.181(a) filed February 8, 2011. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed December 20, 2010 be withdrawn.

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). Applicants never received the Notice of Non-Compliant Appeal Brief that was mailed on June 15, 2009.

Applicants have provided documentation showing non-receipt of the Notification. Applicants have also attempted in the petition to address the issues raised in the Notification of Non-Compliant Appeal Brief.

§ 1.4 Nature of correspondence and signature requirements.

(c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

DECISION

The Petition is **GRANTED** as to the withdrawal of abandonment.

The period for response to Notification of Non-Compliant Appeal Brief will run from the mail date of the petition decision.

/Yvonne Eyler/

Yvonne L. Eyler, Director
Technology Center 1700
Chemical and Materials Engineering

Richard L. Chinn
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
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
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 11002369

Filed : 01-Dec-2004

Attorney Docket No : USGINZ03740

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 have been withdrawn.

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

Name	USGI Medical, Inc.
Name2	
Address 1	1140 Calle Cordillera
Address 2	
City	San Clemente
State	CA
Postal Code	92673
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11002369
Filing Date	01-Dec-2004
First Named Inventor	Vahid Saadat
Art Unit	3779
Examiner Name	ALIREZA NIA
Attorney Docket Number	USGINZ03740
Title	Self-locking removable apparatus and methods for manipulating and securing tissue

◉ 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110216

DATE : February 16, 2011

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 7,060,788

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:

/HAROLD Y PYON/
Supervisory Patent Examiner.Art Unit 1761

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 03 2011

OFFICE OF PETITIONS

SAILE ACKERMAN LLC
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

In re Patent No. 7,777,568	:	
Issue Date: August 17, 2010	:	
Application No. 11/002,616	:	DECISION ON PETITION
Filed: December 2, 2004	:	
Attorney Docket No. FTD04-002	:	

This is a decision on the Request For Certificate Of Correction, filed November 4, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name and residence. 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 and residence on the previously submitted PTOL 85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Mandate Chips and Circuits Pvt. Ltd., Singapore (SG)"

to:

--Intelligent Design Limited, Ebene Mauritius--

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

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

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

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,777,568.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
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)
7128497	2006-10-31	11002716	2004-12-02	

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 c. tucker/	Date (YYYY-MM-DD)	2011-06-06
Name	Robert C. Tucker	Registration Number	31434

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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In re Patent No. 7128497
Issue Date: October 31,2006
Application No. 11002716
Filed: December 2,2004
Attorney Docket No. 33778

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

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

The petition is **GRANTED**.

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

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

PTO/SB/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: Cheong 7-2 (S)-US-CNT	Patent Number: 7,668,578
Filing Date (or 371(b) or (f) Date): December 2, 2004	Issue Date: February 23, 2010
First Named Inventor: Sang-Wook Cheong	
Title: MgB.sub.2 superconductors	

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

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

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

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

Signature /Gregory J. Murgia/	Date August 10, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

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

☑ *Total of 1 forms are submitted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

Mail Date: 08/17/2010

Applicant	: Sang-Wook Cheong	: DECISION ON REQUEST FOR
Patent Number	: 7668578	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/002,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1388** 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

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Patent of Matsumoto	:	
Patent No. 7,253,885	:	
Issue Date: August 7, 2007	:	DECISION ON REQUEST
Application No. 11/002,906	:	FOR RECONSIDERATION OF
Filing Date: December 3, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 03599.102821	:	

This is a decision on the petition filed October 5, 2007, 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 hundred ninety-nine (199) days. The Office sincerely regrets the delay in the issuance of the instant decision.

The petition is **dismissed**.

The application was filed December 3, 2004.

The Office mailed a Notice to File Missing Parts of Nonprovisional Application on February 4, 2005. The notice required the submission of new drawings because the line quality on the original drawings was too light to be reproduced for some of the drawing figures.

Replacement drawings were filed February 24, 2005.

The examiner mailed a non-final Office action on December 15, 2006. The Office action stated the replacement drawings were acceptable.

The Office mailed a Notice of Allowance and a Notice of Allowability on March 7, 2007. The Notice of Allowability did not require the submission of new drawings.

On May 10, 2007, the Office issued a Notice to File Corrected Application Papers indicating the drawings were traversed by lines, which were not part of the approved figures

Replacement drawings were filed July 9, 2007.

The patent issued July 18, 2007. The patent sets forth a patent term adjustment of 169 days.

The Office's calculation of the patent term adjustment on the patent was based, in part, on the Office's entry of a 30-day reduction in patent term adjustment as a result of the drawings filed July 9, 2007. The 30-day reduction was entered pursuant to 37 C.F.R. § 1.704(c)(10) which states,

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

Manual of Patent Examining ("MPEP") § 2732 (8th ed., Rev. 7, July 2008) explicitly lists drawings as papers that will result in a reduction when filed after the mailing of a Notice of Allowance.

In this case, drawings were filed after the mailing of the Notice of Allowance. Therefore, the entry of a 30-day reduction was proper. Although the Office's failure to notify Patentee of the need to file replacement drawings on an earlier date is unfortunate, such a fact does not make the Office's entry of a 30-day reduction under 37 C.F.R. § 1.704(c)(10) improper.

In view of the prior discussion, a certificate of correction changing the patent term adjustment will not be issued.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cindy X. Qiu
6215 Bienville St.
Brossard QC J4Z 1W6
Canada

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,030,633 :
Issue Date: April 18, 2006 :
Application No. 11/002,936 : REQUEST FOR INFORMATION
Filed: December 3, 2004 :
Attorney Docket No. N/A :

This request for information is mailed in response to the petition under 37 CFR 1.378(b), filed October 3, 2011 (certificate of mailing date September 30, 2011), to accept the delayed payment of a maintenance fee for the above-identified patent.

Please respond within TWO (2) MONTHS from the mail date of this request for information. 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.

The merits of this petition will not be addressed because the person signing the petition has not established his authority to file the petition. As stated in MPEP 2590,, "If the petition is signed by a person not registered to practice before the Office, the petition must indicate that the person signing the petition is the patentee, assignee, or other party in interest. An assignee must comply with the requirements of 37 CFR 3.73(b) which is discussed in MPEP § 324." (emphasis added)

Petitioner has not complied with the requirements of 37 CFR 3.73(b).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: STEVEN SHUYONG XIAO
2555 NANTEL
ST-LAURENT, QC H4M 1K6
CANADA

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)
7192537	2007-03-20	11002994	2004-12-03	07620026US

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Philip D Lane/	Date (YYYY-MM-DD)	2011-03-22
Name	Philip D Lane`	Registration Number	41140

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. 7192537
Issue Date: March 20,2007
Application No. 11002994
Filed: December 3,2004
Attorney Docket No. 07620026US

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

This is a decision on the electronic petition, filed March 22,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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OCT 2 8 2010

Dorothy M. Hartman
#W105
2200 Benjamin Franklin Parkway
Philadelphia PA 19130-3830

In re application of Dorothy M. HARTMAN SERIAL NO.: 11/003,123 FILED: March 7, 2005 FOR: ACCESSING ACCESSIBILITY PROCESS	**DECISION ON PETITION UNDER 37 CFR 1.181 FOR SUPERVISORY REVIEW**

This Decision is in response to the petition filed on July 13, 2010 for supervisory review under 37 CFR 1.181 for: the withdrawal of claims, the non-consideration of claims on the merits, the consideration of affidavits and other evidence, and the entry and consideration of the Amended Appeal Brief filed July 13, 2010.

Petitioner seeks remedy in the form of: rejoinder of the withdrawn claims for the purposes of appeal, consideration of the non-considered claims on appeal, entry and consideration of all affidavits and other evidence by the Examiner, and entry and consideration by the Examiner of the Amended Appeal Brief and affidavits and other evidence by the Examiner.

The petition is **DENIED**.

Relevant History

Applicant originally filed claims 1-4 on December 3, 2004. In response to a Notice of Incomplete Nonprovisional Application (No Filing Date Accorded) mailed January 10, 2005, Applicant filed a revised set of claims 1-4 (filed March 7, 2005). The revised set of claims 1-4 was considered on the merits in the

Office action mailed December 21, 2007. Applicant submitted an amendment to the claims on January 28, 2008. Such amendment was held to be non-compliant for, among other reasons, failing to provide proper status identifiers pursuant to 37 CFR 1.121 (see Notice of Non-Compliant Amendment mailed May 27, 2008). Accordingly, this amendment was not entered. Applicant, in response to such Notice, submitted an amendment to the claims on June 25, 2008. Such amendment identified claims 1-4, and 8, as being "WITHDRAWN AMENDED"; and claim 13 (second occurrence) as being "WITHDRAWN". A Final Office action in response to the Amendment of June 25, 2008 was mailed on September 22, 2008. In response to the Final Office action, Applicant filed a Notice of Appeal and Appeal Brief on March 23, 2009. Subsequent to the filing of the Appeal Brief, Applicant submitted an amendment to the claims on June 11, 2009. Such amendment was denied entry for failing to comply with provisions of 37 CFR 41.33 (see Advisory Action mailed June 17, 2009).

Discussion of Current Claim Set

It is noted that the Final office action mailed September 22, 2008 stated that the reply filed on June 36, 2008 appeared to be a *bona fide* attempt and that Applicant is prosecuting this application *pro se*. The Examiner identified that such amendment did not comply with 37 CFR 1.121, but nonetheless waived the requirements of the Rule for this particular amendment in deference to Applicant's status as an Applicant, *pro se*. The Examiner, however, also requested a correct listing of the claims pursuant to 37 CFR 1.121. A review of the file reveals that no amendment to the claims in effort to provide what applicant believed to be a correct listing of the claims pursuant to 37 CFR 1.121 and, at that point in prosecution, also pursuant to 37 CFR 1.116 was submitted.

It is further noted that Applicant's filing of an Appeal Brief permits amendments to the claims only under the provisions of 37 CFR 41.33. The Examiner appropriately denied entry of the amendment filed June 11, 2009 because it was not limited to cancelling claims or rewriting dependent claims into independent form as per 37 CFR 41.33(b) and (c). Moreover, claim listings provided in the "Status of Claims" section and the "Claims Appendix" section of any of the Appeal Briefs do not constitute properly filed amendments, since the listings are not compliant with 37 CFR 41.33. Among other things, any new amendment must be submitted in a separate paper and is not entered as a matter of right (see MPEP 1206 (I)). In this case, all listings of

claims provided by Appellant form part of the respective Briefs, but are not entered as amendments to the claims.

Accordingly, the last entered claim set for consideration before the Examiner were those filed on June 25, 2008 and treated by the Examiner in the Final Office action mailed September 22, 2008.

Review of the Withdrawal of Claims

A review of the withdrawal of claims from examination of the June 25, 2008 claim set reveals the following:

Applicant listed claims 1-4, 8, and renumbered claim 14 (see Office action of September 22, 2008 at pages 4-5 for renumbering) as "WITHDRAWN AMENDED" (claims 1-4, and 8) or "WITHDRAWN" (renumbered claim 14). These claims were not the subject of a restriction or election requirement but were voluntarily withdrawn from prosecution by Applicant per the identification of their statuses as "Withdrawn". Since Applicant requested the withdrawal of these claims and since such claims were accordingly not further treated on the merits prior to the filing of the Appeal, such claims will not be included with the claims on Appeal because the voluntary withdrawal of claims 1-4, 8, and renumbered claim 14 by Applicant has prevented the Examiner from providing a second rejection of these claims thereby making these claims eligible for consideration on Appeal (see 37 CFR 41.31(a)).

The Examiner did withdraw claim 7 with the reasoning that claim 7 recites a method of performing data searches for a fee, which is patentably distinct from a method of making airline reservations. Since an Examination based upon the invention directed to a method of making airline reservations had already been provided, the withdrawal of claim 7 is properly based upon the constructive election of the invention directed to the method of making airline reservations. Petitioner has not argued that the inventions overlap in scope or even that there would have been serious burden in the examination of both inventions. Accordingly, arguments that the Examiner inappropriately withdrew claim 7 from consideration are not persuasive. This claim will not be rejoined for the purposes of the Appeal.

Review of Non-Consideration of Claims on The Merits

A review of the objection of claims 17-26 (see Office action of September 22, 2008 at pages 4-5 for renumbering) as being in improper multiple dependent form (see Office action mailed September 22, 2008 at page 5) reveals no error in the Examiner's refusal to further treat these claims on the merits. Claims 17-26 (as renumbered) are not compliant with 37 CFR 1.75 which requires that multiple dependent claims refer to other claims in the alternative only. As observed by the Examiner in the Office action, improper multiple dependent claims are not further treated on the merits (MPEP 608.01(n)). Since these claims have not been twice rejected these claims are not eligible for consideration on Appeal (see 37 CFR 41.31(a)).

Review of Treatment of Affidavits and Other Evidence

A review of the file reveals that the Examiner has considered all evidence submitted prior to the final Office action. The Examiner notes in the final Office action that the evidence (treated as an Affidavit under 37 CFR 1.131) is not effective in antedating the Jafri reference since the Jafri reference is a statutory bar under 35 USC 102(b). See 37 CFR 1.31(a)(2) and MPEP 715(II).

A review of the file further reveals that the Examiner has denied entry of additional affidavits or other evidence filed after the filing of the March 23, 2009 Appeal Brief because the submissions of such were not timely filed pursuant to 37 CFR 41.33(d)(2). The Examiner's action is consistent with this Rule and, accordingly, the Examiner did not err in non-consideration of affidavits or evidence filed with or after the Notice of Appeal.

Disposition of Amended Appeal Brief

Appellant may file a Reply Brief as a matter of right within two months from the mailing date of the Examiner's Answer or Supplemental Examiner's Answer. Additionally, the Reply Brief can also be a Substitute Brief replacing the original Appeal Brief. See MPEP 1208(I). Appellant has filed an "Amended Appeal Brief" on July 13, 2010 which is considered a Substitute Brief intended to replace the original Appeal Brief. Such filing was submitted more than two months from the mailing date of the Examiner's Answer mailed February 3, 2010. Appellant has not filed a request for an extension of time pursuant to 37 CFR

1.136(b) prior to or on the two month date. Accordingly, the Amended Appeal Brief will not be entered. If Appellant does not file a Reply or Substitute Brief within the two month period of time, the Reply or Substitute Brief will not be considered and the application will be forwarded to the Board of Appeals for decision on the appeal. See 37 CFR 41.41.

Review of Examiner Conduct

The Petition alleges a variety of instances of improper conduct by the Examiner in the handling of the instant case. A review of the file reveals no evidence of instances where the Examiner, or any other USPTO official, acted in an arbitrary or capricious manner.

Matters Not Addressed by this Decision

Petitioner's arguments ultimately directed to statutory matters bearing against the patentability of the claims have not been addressed in this Decision. Petitioner is reminded that arguments directed to an appealable matter rather than a petitionable matter will not be reviewed by the Director. The refusal to grant claims because the subject matter as claimed is considered unpatentable is called a "rejection". Rejections involving the merits of the claim are subject to review by the Board of Patent Appeals and Interferences and will therefore not be reviewed by the Director. See MPEP 706.01.

Summary

The Petition is DENIED.

The claim set filed June 25, 2008 is determined to be the last entered claim set.

Claims 1-4, 8, and renumbered claim 14 have been withdrawn by Applicant and are not eligible for consideration on Appeal pursuant to 37 CFR 41.31(a).

Claim 7 has been appropriately withdrawn by the Examiner as being directed to an invention distinct from the invention constructively elected by original presentation and will not be rejoined for the purposes of Appeal.

Claims 17-25 have appropriately not been further treated on the merits and are not eligible for consideration on Appeal pursuant to 37 CFR 41.31(a).

All affidavits and other evidence submitted prior to the Final office action have been appropriately considered by the Examiner and noted as such in the final Office action.

No affidavits and other evidence submitted after the filing of the Appeal Brief submitted March 23, 2009 appropriately have not been considered pursuant to 37 CFR 41.33(d)(2).

The Amended Appeal Brief filed July 13, 2010 is non-compliant with 37 CFR 41.41 for failure to be timely submitted and will not be entered or considered by the Examiner.

The case is being returned to the Board of Patent Appeals and Interferences for a decision on the Appeal.

Any question concerning this decision should be referred to Jeffrey A. Smith on (571) 272-6763.

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

WC/jas: 10/10/2010

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Dorothy M. Hartman
#W105
2200 Benjamin Franklin Parkway
Philadelphia PA 19130-3830

MAILED
JAN 14 2011
OFFICE OF PETITIONS

In re Application of :
Dorothy M. Hartman :
Application No. 11/003,123 : ON PETITION
Filed: March 7, 2005 :
Attorney Docket No. :

This is a decision on the petition, filed November 23, 2010, supplemented on November 30, 2010, supplemented a second time on December 8, 2010 and supplemented a third time on December 9, 2010. The petition is being treated as a petition under 37 CFR 1.181 (no fee) to review the Decision of the Technology Center Director mailed October 28, 2010.

The petition is **DISMISSED**.

The petition and supplements noted above are not signed and are thus not in compliance with 37 CFR 1.33(b) which states:

Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

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

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

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

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. Petitioner did not sign the petition and supplements and thus they cannot be considered at this time. For consideration of these papers, applicant must resubmit the papers with her signature.

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

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

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

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

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

Anthony Knight
Director, Office of Petitions

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Dorothy M. Hartman
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2200 Benjamin Franklin Parkway
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MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Dorothy M. Hartman	:	
Application No. 11/003,123	:	ON PETITION
Filed: March 7, 2005	:	
Attorney Docket No.	:	

This is a decision on the renewed petition filed February 14, 2011 under 37 CFR 1.181, requesting supervisory review of the decision of the Director, Technology Center 3600 (Technology Center Director), mailed on October 28, 2010.

The petition is **GRANTED** to the extent indicated.

Petitioner alleges the United States Patent and Trademark Office (USPTO) is in violation of petitioner's civil rights since it has done everything it could possibly do including writing and rewriting rules, switching examiners and documents and citing invalid references to bar applicant from getting a patent. Petitioner seeks review of the Technology Center Director's decision by the Director and does not want review by anyone within the Technology Center. Petitioner asserts that claims 1-4 are still pending in the application and that the examiner improperly removed claims 1-4 from prosecution.

The application was filed with claims 1-4. An amendment to the claims was filed March 7, 2005. This amendment included a new set of claims 1-4 which differed from the original claims 1-4, and did not amend original claims 1-4 in compliance with 37 CFR 1.121 (the regulation governing the amendment of applications). The Technology Center issued an Office action rejection on December 21, 2007 treating claims 1-4 as presented in the amendment filed on March 7, 2005, rather than refusing to enter the amendment of March 7, 2005 as not in compliance with 37 CFR 1.121.

A review of the record of this application shows no indication of an improper intent or motive on the part of the Technology Center. The record of this application reveals only the difficulties experienced by a Technology Center when dealing with a *pro se* applicant who is unfamiliar with

the process and who is not experienced in prosecuting the application, specifically submitting amendments, in compliance with the applicable regulations. Petitioner's experiences in this application are simply those that would be expected for a person who engaging in legal matters that the he or she does not have the familiarity to handle. No rules were written or rewritten in regard to the prosecution of this application. It is not unusual for examiners to be reassigned to a patent application for administrative reasons including but not limited to an examiner leaving employment with the USPTO. Finally, issues related to the merits of the rejection of the claims in this application (*e.g.*, the propriety of the cited references) are properly raised before the Board of Patent Appeals and Interferences.

Petitioner is obviously unfamiliar with the patent application process. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Petitioner is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The USPTO cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet Web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster". Applicants may also obtain a list of registered patent attorneys and agents located in their area by sending a letter to Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

The USPTO, being mindful of petitioner's *pro se* status, is granting the relief indicated in this decision to give petitioner one final opportunity to submit the claims desired for examination. Specifically, to continue prosecution of this application, petitioner must submit a new set of claims that include whatever claims the applicants wants to be in this application. The newly submitted claims must be consecutively numbered beginning with claim 26.

The currently pending claims will be considered canceled in favor of the newly submitted claim(s). Thus, if petitioner wants any currently pending claim to be considered, it must be included in the new set of claims submitted in response to this decision. The only claims that will be pending in this application will be the claims contained in the set of claims submitted in response to this decision.

If petitioner files a timely and proper reply to this decision, the USPTO will consider those claims, which may result in

(1) A new Office action (which may be a final Office action); or

(2) A new examiner's answer, which may contain a new ground of rejection.

This decision sets out a requirement within the meaning of 35 USC 132(a). Therefore, petitioner must reply to this decision within a shortened statutory period of **TWO (2) MONTHS** to avoid

abandonment of the above-identified application under 35 USC 133. This two-month period may **NOT** be extended under 37 CFR 1.136(a).

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

Robert W. Bahr
Acting Associate Commissioner
for Patent Examining Policy

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Dorothy M. Hartman
#W105
2200 Benjamin Franklin Parkway
Philadelphia PA 19130-3830

In re Application of	:	
Dorothy M. Hartman	:	
Application No. 11/003,123	:	Letter
Filed: March 7, 2005	:	
Attorney Docket No.	:	

This is in response to the papers filed April 20, 2011, May 9, 2011 and May 24, 2011. These papers are basically duplicates of each other.

It is noted that none of the above referenced papers were signed by applicant and are thus not in compliance with 37 CFR 1.33(b). Applicant is directed to the petition decision mailed January 14, 2011 for a discussion of proper signatures on papers filed with the Office. Only after the papers have been properly signed can they be considered on the merits.

The above noted correspondence was addressed to Dale Shaw at BPAI (Board of Patent Appeals and Interferences). Applicant specifically states in the first paragraph of page 1 "I wish to state that this is not my answer to Mr. Carl Friedman's decision." It is assumed that reference to Carl Friedman's decision identifies the petition decision mailed March 31, 2011. However, applicant then goes on to discuss the merits of that decision. Therefore it is not clear if these papers should be treated as a request for reconsideration and or clarification of that petition decision.

If petitioner is looking for review of the rejections of her claims by the Board of Patent Appeals and Interferences, the petition decision clearly sets forth the action needed by applicant to move the case forward to appeal.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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9115 HAGUE ROAD
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In re Application of	:	
Glaser et al.	:	
Application No. 11/003,149	:	DECISION ON PETITION
Filed: December 3, 2004	:	
Attorney Docket No. ROA 0007 PA/36876.7	:	

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.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal dated January 19, 2010, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 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 an Appeal Brief and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1652 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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SEP 23 2010

OFFICE OF PETITIONS

In re Application of
Huarui He, et al.
Application No.: 11/003,163
Filed: December 3, 2004
Attorney Docket No.: 22391 US-pd/d

ON PETITION

This is a decision in response to the petition, filed July 23, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 7, 2009. A Notice of Abandonment was mailed on July 24, 2009. On July 23, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the response filed July 23, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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In re Application of	:	
Lan et al.	:	
Application No. 11/003,171	:	ON PETITION
Filed: December 3, 2004	:	
Attorney Docket No. UC0461USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 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 25, 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 26, 2009. A Notice of Abandonment was mailed October 5, 2009.

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

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

This application is being referred to Technology Center 2815 for further examination on the merits

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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In re Application of	:	
Chudy, et al.	:	
Application No. 11/003,186	:	ON APPLICATION FOR
Filed: December 3, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 045657-0117	:	

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 June 30, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand forty-four (1044) days[1], not seventeen (17) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). 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

[1] This calculation is based on a projected issuance date of October 12, 2010.

initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

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

The 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.

---

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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

SEP 06 2011

OFFICE OF PETITIONS

In re Patent No.: 7,303,543 :
Issue Date: December 4, 2007 :
Application No.: 11/003,225 : DECISION ON PETITION
Filed: December 3, 2004 :
Attorney Docket No.: 40088-310984 :

This is a decision on the petition under 37 CFR 1.182, filed September 29, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent. The delay in responding is regretted; however, the petition was recently referred to the undersigned for consideration.

A review of the file record discloses that the application matured into U.S. Patent No.7,303,543 on December 4, 2007. However, on February 26, 2008, a petition was filed contending that the patent was never received. . The petition was dismissed by a decision mailed August 19, 2008. On September 29, 2008, the present petition was filed, including the requisite $400 petition fee.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. 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 Office of Data Management for issuance of a duplicate Letters Patent.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Ollie Person, RSQ, 9th Floor, Room D30-A (Fax No. 571-270-9764)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALFRED A. STADNICKI
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Scott A. BOYDEN et al	:	DECISION
Application No. 11/003,336	:	ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. 3156-046B	:	

This is a decision on the petition to Withdraw the Holding of Abandonment filed December 23, 2009, which is being treated as a petition under 37 CFR 1.181, as a petition to invoke the supervisory authority of the Director.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to a request to provide corrected drawings as required. Accordingly, by operation of law, the above-identified application became statutorily abandoned on November 18, 2009. A Notice of Abandonment was mailed on December 7, 2009.

Petitioner submits that the reassertion of the requirement for corrected drawings in the Notice of Allowance was without acknowledgement of or response to the prior traversal of this requirement; that the reassertion of this objection was clearly due to an inadvertent error. Furthermore it was petitioner's recollection and belief that the examiner was notified, and that the examiner would make the correction.

A review of the file history indicates no correction by the examiner was done to the Notice of Allowance mailed August 17, 2009. Since this application was abandoned on November 18, 2009, the verbal agreement by the examiner had no procedural authority with respect to the abandoned application. While it is unfortunate that notwithstanding the lack of a proper response to the Office actions mailed the, the verbal commitment by the examiner had no force and effect. Hence 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. This two month period is not extendable. See 37 CFR

1.181(f). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any renewed petition may be addressed as follows:

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALFRED A. STADNICKI
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of	:	SUPPLEMENTAL
Scott A. BOYDEN et al	:	DECISION
Application No. 11/003,336	:	ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. 3156-046B	:	

This is a corrected decision on the petition to Withdraw the Holding of Abandonment filed December 23, 2009, which is being treated as a petition under 37 CFR 1.181, as a petition to invoke the supervisory authority of the Director.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a request to provide corrected drawings as required. Accordingly, by operation of law, the above-identified application became statutorily abandoned on November 18, 2009. A Notice of Abandonment was mailed on December 7, 2009.

Upon a further review of the file history, records show that the examiner in the Notice of Allowance (PTOL-37) mailed August 17, 2009, checked box 5(b), indicative of a requirement that corrected drawing be submitted. However at page 5, under "DRAWINGS", the examiner in charge of the application indicates that the drawings received on May 22, 2009 were acceptable. The non-final office action dated March 25, 2009 objected to Figures 1-4, 20, and 21. In response to the objection, petitioner submitted replacement sheets for Figures 4, 20, and 21. Petitioner traversed the objection to Figures 1-3 on the basis that these drawings were corrected in a submission dated April 27, 2007. Subsequently, on August 17, 2009 the examiner allowed the application.

In view of this inconsistency between the examiner's checking of Box 5(b) on the Notice of Allowance Form PTOL-37, and the examiners approval of the drawings in the detailed body of the Office Action, included with the PTOL-37, the request to withdraw the holding of abandonment is hereby granted.

This application will be forwarded to the Office of Data Management for processing into a patent. The issue fee was received on November 16, 2009.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-14-10

TO SPE OF : ART UNIT 2186

SUBJECT : Request for Certificate of Correction for Appl. No.: 11003520 Patent No.: 7814261

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: _____

MATTHEW KIM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2186
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/03/11

TO SPE OF : ART UNIT 2122

SUBJECT : Request for Certificate of Correction for Appl. No.: 11003565 Patent No.: 7280891

CofC mailroom date: 04/28/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

[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 Art Unit

Newsome, Lamonte

From: Bahta, Kidest
Sent: Monday, June 20, 2011 8:19 AM
To: Newsome, Lamonte
Subject: FW: 11003565
Attachments: SPE's Reponse 3 01-13-2006 for IFW docs (2) (3).doc

approved

Thanks,
kidest

From: Newsome, Lamonte
Sent: Friday, June 17, 2011 11:35 AM
To: Bahta, Kidest
Subject: 11003565

3rd Request!

From: Newsome, Lamonte
Sent: Tuesday, May 03, 2011 3:34 PM
To: Bahta, Kidest
Subject: 11003565

Please review the attached document.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/03/11

TO SPE OF : ART UNIT 2122

SUBJECT : Request for Certificate of Correction for Appl. No.: 11003565 Patent No.: 7280891

CofC mailroom date: 04/28/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

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: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Kakali Chaki/ SPE, AU 2122 6/28/11

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/03/11

TO SPE OF : ART UNIT 2122

SUBJECT : Request for Certificate of Correction for Appl. No.: 11003565 Patent No.: 7280891

CofC mailroom date: 04/28/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

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.
X Denied	State the reasons for denial below.

Comments: Applicant is correct that the Patent should be corrected. However, the requested corrections cannot be made. The Correction to the Patent should be as follows:

Column 5, line 25, "4" should be read --9--;

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Column 5, line 25, "3" should be read --8--;

Column 5, line 29, "5" should be read --4--;

Column 5, line 33, "6" should be read --5--;

Column 5, line 33, "5" should be read --4--;

Column 5, line 35, "7" should be read --6--;

Column 5, line 42, "8" should be read --7--;

Column 5, line 42, "7" should be read --6--;

Column 6, line 4, "9" should be read --8--;

/Kakali Chaki/ SPE, AU 2122 9/9/11

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

GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
P.O. BOX 7021
TROY, MI 48007-7021

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of
Kinya Washino, et. al.
Application No. 11/003,579
Filed: December 3, 2004
Attorney Docket No. FNI-02507/03

DECISION ON PETITION

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

The application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 16, 2009. A Notice of Abandonment was mailed on August 5, 2010.

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

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the $540 fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center Art Unit 2622 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the above application.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Washino et al.	:	
Application No. 11/003,580	:	DECISION ON PETITION
Filed: December 3, 2004	:	
Attorney Docket No. FNI-02505/03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 13, 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 Notice of Appeal and fee of $540, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2622 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW FIRM OF DAN SHIFRIN
6208 DEVINNEY CIRCLE
ARVADA CO 80004

MAILED
AUG 09 2010
OFFICE OF PETITIONS

In re Application of :
Ripberger, et al. :
Application No. 11/003,866 :
Filed: 3 December, 2004 :
Attorney Docket No. TUC920040190US1 :

DECISION

This is a decision on the petition filed on 9 July, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the final Office action mailed on 26 September, 2008, with reply due under a non-extendable deadline on or before 26 December, 2008.

On 24 November, 2008, Petitioner filed an amendment after final, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance. On 8 December, 2008, the Examiner mailed a Notice of Non-Compliant Amendment because Petitioner ignored, *inter alia*, the Examiner's specific request pursuant to 37 C.F.R. §1.105.

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

On 26 February, 2009, Petitioner filed, *inter alia*, a request and fee for extension of time, a reply in the form of a request for continued examination (RCE) and fee and a submission pursuant to 37 C.F.R. §1.114 in the form of an amendment—but again Petitioner failed to satisfy the Examiner's specific request pursuant to 37 C.F.R. §1.105, and on 8 April, 2009, the Examiner again mailed a Notice of Non-Compliant Amendment.

The application went abandoned by operation of law after midnight 26 February, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 17 November, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay—but no reply to the outstanding Office action. Instead, Petitioner filed a statement in which Petitioner averred that: "neither the undersigned nor the Applicant nor the Assignee have been able to obtain a copy of" the October 2003 edition of Implementing an Open IBM SAN—Petitioner failed even to identify the efforts made to comply with the request; and information requested by the Examiner constituted "confidential information and/or a trade secret," which Petitioner refused to provide because such material "would become part of the public record." The application stood abandoned and an extension of time sought was not available. Moreover, confidential information, even materials that are averred to constitute "trade secrets" often are required, submitted, considered and closed off in the record so as not to be revealed. The petition was dismissed on 19 March, 2010.

On 17 May, 2010, Petitioner re-advanced his petition, but the required proper reply was not evident in the record. Because it is considered that Petitioner's effort of 17 May, 2010 was *bona fide*, Petitioner must on any renewed petition submit a copy of what Petitioner considers his proper reply and not simply direct the Office to papers averred to have been filed previously—this in any case will include a proper "submission" pursuant to 37 C.F.R. §1.114 to accompany the previously submitted RCE and fee such that the reply is fully and completely responsive to the Examiner's request pursuant to 37 C.F.R. §1.105. The petition was dismissed on 12 July, 2010.

It appears that:

- in the meantime Petitioner became aware of the failure to include the reply with the petition and on 9 July, 2010, submitted a copy of the previously submitted petition with a reply in the form of an amendment and drawings—determination of entry of which is the province of the Examiner; and

- the submission of 9 July, 2010, was not apparent/viewable in the image file wrapper (IFW) at the time the 12 July, 2010, decision was mailed and so was not considered in that decision.

Because the most recently submitted petition did not appear to include the express statement of unintentional delay, the Office looked to the petition filed on 17 November, 2009, for the express

statement of unintentional delay. Petitioner is reminded that the regulations at 37 C.F.R. §1.137(b)(3) require a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." Since the statement appearing in the most recent petition varies from the language required by 37 C.F.R. §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 availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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

STATUTES, REGULATIONS AND ANALYSIS

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

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

---

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

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 3621 for further processing in due course.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Victor D. Dolecek et al. :
Application No. 11/003,912 :
Filed: December 03, 2004 :
Attorney Docket No. **P-9527.01** :

NOTICE

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

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

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.**
666 THIRD AVENUE, 24TH FLOOR
NEW YORK NY 10017

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JAMES H. MORRIS
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,774,397 :
Application No. 11/003,924 :
Filed: December 3, 2004 :
Issued: August 10, 2010 :
Attorney Docket No. S1022.81197US00 :

ON PETITION

This is a decision on the petition filed August 17, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct 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) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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30 SEP 2010

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

In re Application of	:
Blaha et al.	: DECISION ON PETITION
Application No. 11/004,006	:
Filed: December 3, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3286-8182US	:
For: Chip Sorting Device	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed on July 18, 2008.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the

petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to George Dombroske at (571) 272-3283. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3653 for appropriate action on the amendment filed July 18, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

/Boris Milef/
Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Ernst Blaha, et al.	:	
Application No. 11/004,006	:	DECISION GRANTING PETITION
Filed: December 3, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3286-8182US	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed February 28, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 26, 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 3653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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ONE FINANCIAL CENTER
BOSTON MA 02111

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JAN 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,811,607 :
Robert F. Baugh et al :
Application No. 11/004,023 :
Filed: December 3, 2004 :
Attorney Docket No. 37272-505D01US :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on September 7, 2010.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/13/10 **Paper No.:** —

TO SPE OF : ART UNIT 3626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/004134 Patent No.: 2684999B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

/Robert Morgan/ 3626

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MAR 07 2011
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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

In re Application of	:	
John F. Petrilla et al.	:	
Application No. 11/004,390	:	DECISION ON PETITION
Filed: December 03, 2004	:	
Attorney Docket No. **3717604-00008**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 03, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 03, 2010. Accordingly, the date of abandonment of this application is August 04, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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CRISTINA THALHAMMER-REYERO
10401 GROSVENOR PLACE
#720
NORTH BETHESDA, MD 20852

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of
Christina Thalhammer-Reyero
Application No. 11/004,500
Filed: December 5, 2004
Attorney Docket No. ITV95-US-VI

ON PETITION

This is in response to the communication, filed October 23, 2006, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On March 17, 2005, the Office mailed a Notice to File Corrected Application Papers (Notice), which set a two month shortened statutory period to reply. A reply was received on July 14, 2005. The Office mailed a Notice of Incomplete Reply on August 31, 2005, which continued to run from the mail date of the Notice mailed March 17, 2005. A reply to the Notice mailed August 31, 2005 was received on September 25, 2005. On October 13, 2005, the Office mailed a second Notice of Incomplete Reply on October 13, 2005. The application became abandoned on July 18, 2005, for failure to submit a complete response to the original Notice to File Corrected Application Papers mailed March 17, 2005. On August 31, 2006, the Office mailed a Notice of Abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that petitioner submitted a reply to the Notice mailed August 31, 2005. The reply received in the Office September 25, 2005, was incomplete because there was a fee deficiency. A Notice of Incomplete Reply (Notice) informing applicant that his initial reply did not cover the cost of the additional of $300 required for the filing of excess independent claims in excess over 3 was due. In response petitioner filed a preliminary amendment cancelling 11 independent claims leaving a total of 6 (i.e. claims 142, 161, 221, 259, 270, and new independent claim 394). While it is noted that petitioner made a bonified attempt to correct the total number of independent claims received on filing, the petitioner still had 3 extra independent claims to which fees were required. A second preliminary amendment was filed in conjunction with this petition. Petitioner should note that the preliminary amendment filed with

this petition still contains the 3 extra independent claims that were pointed out in the original Notice. The abandonment of this application is considered proper.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Patent Application Processing at their hotline 571-272-4000.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement;

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Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy UT 84091

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JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
SANCTIS et al. :
Application No. 11/004,526 :
Filed: 12/03/2004 :
Attorney Docket No. PA-00003 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 6, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 7, 2010. A Notice of Abandonment was mailed on July 6, 2010.

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

This application is being referred to Technology Center AU 3621 for processing of the RCE and for appropriate action by the Examiner on the amendment submitted in accordance with 37 CFR 1.114.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101213

DATE : December 13, 2010

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,715,893

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The Request for Certificate of Correction filed July 7, 2010 is approved.

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

OK TO ENTER: /C.M./

Knobbe Martens Olson & Bear LLP

Intellectual Property Law

550 West C Street
Suite 1200
San Diego CA 92101
Tel 619-235-8550
Fax 619-235-0176
www.kmob.com

Rose M. Thiessen, Ph.D.

July 7, 2010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Title: CALIBRATION TECHNIQUES FOR A CONTINUOUS ANALYTE SENSOR
Letters Patent No. 7,715,893
Issued: May 11, 2010
Our Reference: DEXCOM.038A

Dear Sir:

Enclosed for filing is a Certificate of Correction in connection with the above-identified patent.

The error to be corrected is an error in antecedent basis for the limitation "glucose-related sensor data point" in Claim 29. The mistake is of a clerical nature, of a typographical nature, or a mistake of minor character, and the correction does involve changes which would constitute new matter or require reexamination.

As the errors cited in the Certificate of Correction were incurred through the fault of the Applicant, enclosed is our check in the amount of $100. Please charge any additional fees to our Deposit Account No. 11-1410.

Respectfully submitted,

Knobbe, Martens, Olson & Bear, LLP

/Rose M. Thiessen/
Rose M. Thiessen
Registration No. 40,202
Customer No. 68,851

Enclosures

9304350 (070610)

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NEKTAR THERAPEUTICS
455 MISSION BAY BLVD., SOUTH, SUITE 100
SAN FRANCISCO CA 94158

In re Patent No. 7,790,835 :
Issued: September 7, 2010 : LETTER REGARDING
Application No. 11/004,631 : PATENT TERM ADJUSTMENT
Filed: December 3, 2004 :
Attorney Docket No. **SHE0085.00** :

This is a decision on the PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed on October 6, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 535 days to 548 days. Applicant requests this correction on the basis that the Office took in excess of three years to issue this patent in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

The 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 December 3, 2007 and ends on June 2, 2008, the day before the RCE was filed, the B delay would be 182. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee fails to account for the filing of a Notice of Appeal on May 22, 2008, and the subsequent filing of a RCE on June 3, 2008. The 182 days of the over three year period therefore would be consumed by appellate review, beginning on May 22, 2008 and ending on June 3, 2008. The time for appellate review is excluded (182 – 12); thus 170 additional days for B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 535 days (427 "A delay days" + 170 "B delay days" (182 - 12) - 62 Applicant delay days), not 548 days.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 12/20/10

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7822128

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.

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

Comments:

SPE Shuang Lin

PTO/SB/44 (02-01)
Approved for use through 01/31/2004, OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number
(Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,822,128 Page (1) of 1

DATED : October 26, 2010

INVENTOR(S) : Alexander A. Maltsev et al.

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

In column 12, line 5, in Claim 3, delete "claim 1" and insert - - claim 2 - -, therefor.

The correction is acceptable. KT

Kabir Timory
12/20/2010

MAILING ADDRESS OF SENDER PATENT NO 7,822,128

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

No. of additional copies

Atty Docket No. 884.D63US1

Shaway Lin

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DEPT. AMD
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of John S. Yates Jr., David L. Reese, Paul H. Hohensee, Korbin S. Van Dyke, Shalesh Thusoo, and Tiruvur R. Ramesh Application No. 11/004,729 Filed: December 2, 2004 Attorney Docket No. AMD-4004A Title: TABLE LOOK-UP FOR CONTROL OF INSTRUCTION EXECUTION	DECISION ON THIRD RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A) AND PETITIONS PURSUANT TO 37 C.F.R. §§ 1.182 and 1.183

This is in response to the third renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on April 7, 2010, the concurrently submitted petition pursuant to 37 C.F.R. 1.182 requesting the change of the name of the second-named joint inventor (specifically, Petitioner has requested that "T.R. Ramesh" be changed to "Tiruvur R. Ramesh"), and a petition pursuant to 37 C.F.R. § 1.183, submitted on August 20, 2010. Receipt of the one-month extension of time to make timely these submissions is acknowledged.

The third renewed petition pursuant to 37 C.F.R. § 1.47(a) is **DISMISSED AS INAPPROPRIATE.**

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED.**

The petition pursuant to 37 C.F.R. § 1.183 is **GRANTED.**

In a final Office action mailed on July 16, 2008, the Examiner indicated that a newly executed declaration would be required, as the declaration that was presented on filing contains two non-dated and non-initialed alterations by the final two-named joint inventors. Moreover, Mr. Ramesh's name improperly contained an abbreviation. On August 31, 2009, Petitioner submitted a Request for Continued Examination along with an amendment, a five-month extension of time so as to make timely the response, an original

petition pursuant to Rule 1.47(a), a declaration that has been executed by Mr. Ramesh which contains his full first name, and the last-known address of non-signing inventor Thusoo.

The original petition pursuant to 37 C.F.R. § 1.47(a) was dismissed via the mailing of a decision on September 30, 2009, a renewed petition pursuant to 37 C.F.R. § 1.47(a) was filed on October 5, 2009, and was dismissed via the mailing of a decision on November 2, 2009, a second renewed petition pursuant to 37 C.F.R. § 1.47(a) was filed on December 11, 2009, and was dismissed via the mailing of a decision on January 11, 2010.

This third renewed petition pursuant to 37 C.F.R. § 1.47(a) is dismissed as inappropriate, as petitions pursuant to this Rule are not applicable to supplemental oaths or declarations. See MPEP § 603:

> [w]hen an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183.

With the petition pursuant to 37 C.F.R. § 1.182, Petitioner has included a statement from the inventor that has been signed in both forms of the inventor's name, averring one to be the incorrect version of his name and the other to be the correct version of his name. It is noted that the declaration that was received on August 31, 2009 was executed by Mr. Ramesh in the correct version of his name.

Petitioner has further included $260 towards the $200 petition fee. The $260 submission will be refunded to Petitioner's credit card and the $200 petition fee will be charged to Deposit Account No. 22-0493 in due course, as authorized on the second page of the petition pursuant to Rule 1.183.

The inventor's name has been changed in the records of the Office to Tiruvur R. Ramesh.

A corrected filing receipt has been included with this decision.

Regarding the petition pursuant to 37 C.F.R. § 1.183, Petitioner has included a statement of facts from Mr. Gelman, which indicates that a copy of the application was mailed to the last known address of Mr. Thusoo along with a copy of the supplemental declaration, and that no response has been forthcoming.[1]

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1 Gelman statement of facts, paragraphs 5-6, submitted with the Rule 1.183 petition. See also letter dated July 29, 2010, submitted concurrently therewith.

The Office is construing this to be an assertion that it was a complete copy of the application that was sent to the last-known address of the non-signing inventor, and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

The petition fee will be charged to Deposit Account No. 22-0493 in due course, as authorized on the second page of the petition pursuant to Rule 1.183.

The petition pursuant to 37 C.F.R. § 1.183 is hereby granted, to the extent that the supplemental declaration submitted on August 31, 2009 is accepted without the signature of Mr. Thusoo.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/004,729	12/02/2004	2183	3728	AMD-4004A	65	9

CONFIRMATION NO. 3434

CORRECTED FILING RECEIPT

25310
VOLPE AND KOENIG, P.C.
DEPT. AMD
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

OC000000043166605

Date Mailed: 09/01/2010

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 S. Yates JR., Needham, MA;
David L. Reese, Westborough, MA;
Paul H. Hohensee, Nashua, NH;
Korbin S. Van Dyke, Sunol, CA;
Shalesh Thusoo, San Jose, CA;
Tiruvur R. Ramesh, Mountain View, CA;

Assignment For Published Patent Application

ATI International SRL, Hastings, BARBADOS

Power of Attorney: The patent practitioners associated with Customer Number 25310

Domestic Priority data as claimed by applicant

This application is a CON of 09/626,325 07/26/2000 PAT 7,065,633

Foreign Applications

If Required, Foreign Filing License Granted: 01/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/004,729**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COMPUTER INSTRUCTION EXECUTION CONTROLLED BASED ON CONTENTS OF TABLE ENTRIES

Preliminary Class

712

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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MAR 10 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,050,654	:	
Issue Date: May 23, 2006	:	
Application No. 11/004,734	:	DECISION ON PETITION
Filed: December 2, 2004	:	
Attorney Docket No. 2047.001US4	:	

This is a decision on the petition under 37 CFR 1.182, filed January 6, 2011, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The fee of $400 for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account as authorized.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059. Inquiries regarding the issuance the duplicate Letters Patent may be directed to Niomi Farmer in the Office at Data Management at (703) 756-1556.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, RSQ, 9th Floor, Room D30-B. (Fax No. (571) 270-9753)

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Commissioner for Patents
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November 2, 2010

Patent No. : RE41,718 E
Appl. No. : 11/004,793
Inventor(s) : Lester A. Quimpo
Issued : September 21, 2010
Title : **TOILET PAPER DISPENSER AND FOLDER SYSTEM**
Docket No. : **QUIMPO-001**

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

Russ Weinzimmer
614 Nashua Street
Suite 53
Milford NH 03055

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Russ Weinzimmer
614 Nashua Street
Suite 53
Milford NH 03055

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Patent No. RE41718 :
Issued: September 21, 2010 :
Application No. 11/004,793 : ON PETITION
Filed: December 3, 2004 :
Attorney Docket No. QUIMPO-001 :

This is a decision on the petition, filed February 9, 2011 which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is **DISMISSED**.

Petitioner states that the patent has not been assigned and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee.

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

Any request for reconsideration must include the required certificate of correction and the required certificate of correction fee, currently $100.00. Receipt is acknowledged of the $130.00 processing fee.

Upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect the desired correction in the assignee data of record at the time of issuance of the application into a patent. See, 35 U.S.C. § 152.

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

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enc.

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page _____ of _____

PATENT NO. :

APPLICATION NO.:

ISSUE DATE :

INVENTOR(S) :

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:

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

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Russ Weinzimmer
614 Nashua Street
Suite 53
Milford NH 03055

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Patent No. RE41718 :
Issued: September 21, 2010 :
Application No. 11/004,793 : ON PETITION
Filed: December 3, 2004 :
Attorney Docket No. QUIMPO-001 :

This is a decision on the petition, filed March 18, 2011 which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. 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.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

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MORGAN LEWIS & BOCKIUS LLP
(WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,998,718	: DECISION ON
Gout, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/004,840	: of PATENT TERM ADJUSTMENT
Issue Date: August 16, 2011	: and
Filed: December 7, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 040750-5002-US02	: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705", filed October 17, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand four hundred eight (1408) days to one thousand five hundred forty-six (1546) days.

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

On August 16, 2011, the instant application matured into U.S. Patent No. 7,968,110 with a patent term adjustment of one thousand four hundred eight (1408) days. The Office determined a patent term adjustment of 1408 days based upon 198 days of Office delay pursuant to 37 CFR 1.703(a)(1), 1118 days of Office delay pursuant to 37 CFR 1.703(a)(3), and 92 days of Office delay under 37 CFR 1.703(c), reduced by 0 days of Applicant delay.

Patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on December 8, 2007 and ended on August 16, 2011 (the patent issuance date), and is 1348 days. See 35 U.S.C. 154(b)(1)(B)(i). Subtracting the 92 days under 37 CFR 1.703(c), and total "B" delay is 1256 days.

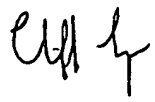
In addition, a review of the file reveals that the 1118 days of Office delay under 37 CFR 1.703(a)(3) was incorrectly calculated. Applicants filed an Amendment after final on August 9, 2007. The Office had four months under 37 CFR 1.703(a)(3) (until December 9, 2007) to mail either an action under 35 USC 132 or a Notice of Allowance. However, the Office did not mail a Notice of Allowance until April 1, 2011. The number of days from December 10, 2007 to April 1, 2011 is 1209 days, not 1118 days. Accordingly, Rule 703(a)(3) delay should have been calculated as 1209 days.

As such, "A" delay is 1407 days (1209 + 198), "B" delay is 1256 days (1348 – 92), "C" delay is 92 days, Applicant delay is 0 days, and the overlapping delay between "A" and "B" delay is 1209 days, while the overlapping delay between "A" and "C" delay is 92 days.

In view thereof, the correct number of days of patent term adjustment is **one thousand four hundred fifty-four (1454)** days (1407 days of "A" delay plus 1256 days of "B" delay plus 92 days of "C" delay, reduced by 0 days of Applicant delay, 1209 days of overlap between "A" and "B" delay and 92 days of overlap between "A" and "C" delay).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred fifty-four (1454) days.**

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



Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,998,718 B2

DATED : **August 16, 2011**

INVENTOR(S) : Gout 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 1408 days.

Delete the phrase "by 1408 days" and insert – by 1454 days--

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

MAILED
DEC 30 2011
OFFICE OF PETITIONS

In re Application of

Houmura, et al.

Application No. 11/005,061

Filed: December 7, 2004

Attorney Docket No. **1720.1012**

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 20, 2011.

The petition is **granted**.

This application was held abandoned July 13, 2011, after no reply was received to the non-final Office action mailed April 12, 2011. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 13, 2011. A Notice of Abandonment was mailed October 27, 2011. The instant petition was filed on December 20, 2011. Petitioner maintains that the notice of April 12, 2011, was never received.

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

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner

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

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

The application file is being forwarded to Technology Center GAU 2172 for further processing that will include re-mailing the non-final Office action and resetting of the period for reply.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 08 2011

OFFICE OF PETITIONS

DAVID I. ROCHE
BAKER & MCKENZIE LLP
130 EAST RANDOLPH DRIVE
CHICAGO IL 60601

In re Patent No. 7,253,061	:	
Issue Date: August 7, 2007	:	
Application No. 11/005,193	:	DECISION ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. TEK-002008	:	

This is a decision on the petition under 37 CFR 1.182, filed July 28, 2010, requesting issuance of a filing date and application number for documents filed in the above-identified application on July 27, 2007.

A review of Office records reveals that the documents referenced by petitioner, having been submitted on July 27, 2007, were assigned U.S. App. No. 12/931,361 and accorded a filing date of July 27, 2007.

In view thereof, the petition is hereby **DISMISSED**.

Telephone 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-25-12

TO SPE OF : ART UNIT 02-25-12

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/005247 Patent No.: 7606969

CofC mailroom date: 02-09-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

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

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

Comments: Amendment is believed to correct typographical error and is consistent with other independent claims.

SPE /Kevin L Ellis/ **Art Unit** 2187

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-25-12

TO SPE OF : ART UNIT 02-25-12

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/005247 Patent No.: 7606969

CofC mailroom date: 02-09-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

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

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

Comments: Amendment is believed to correct typographical error and is consistent with other independent claims.

SPE /Kevin L Ellis/ **Art Unit** 2187

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VON SIMSON & CHIN
62 WILLIAM STREET, 6TH FLOOR
NEW YORK NY 10005

MAILED

APR 28 2011

OFFICE OF PETITIONS

In re Patent No. 7,786,835	:	
Issue Date: August 31, 2010	:	
Application No. 11/005,439	:	DECISION ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. SC-IAT-118	:	

This is a decision on the Petition For Correction Of Assignee Name, filed December 21, 2010, requesting correction on the Title Page of the subject patent, to correct assignee's name. The Request is being treated as a Petition under 37 CFR §1.322(a) for which no fee is required. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR §1.322(a) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct assignee's name on the previously submitted PTOL-85b, filed July 28, 2010, and that such mistake was due to the fault of the United States Patent and Trademark Office. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the spelling of the assignee's name identified thereon from:

"Simida Corp.,"

to

--Sumida Corporation--

Telephone inquiries related this communication should be directed to the undersigned at (571)272-3213. Inquiries regarding this issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703)756-1814.

The Certificates of Correction Branch will be notified of this decision granted the petition under 37 CFR §1.322(a) and directing issuance of the requested Certificate of Correction.

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

Wellstat Management Company. LLC
LEGAL DEPARTMENT
930 CLOPPER ROAD
GAITHERSBURG MD 20878

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of
Shalini Sharma et al.
Application No. 11/005,449
Filed: December 6, 2004
Attorney Docket No. **18015-C1C1**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 30, 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 October 1, 2010.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

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

DOWELL & DOWELL P.C.
103 ORONOCO ST.
SUITE 220
ALEXANDRIA VA 22314

MAILED
JAN 13 2011
OFFICE OF PETITIONS

In re Application of :
Mohini M. SAIN, et al :
Application No. 11/005,520 :
Filed: December 6, 2004 :
Attorney Docket No. 17160 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 6, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 3, 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). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 4, 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).

With respect to item (1): A review of the record shows that the required reply was not received with the petition filed December 6, 2010. In this regard, the petition does not meet the unintentional provisions of 37 CFR 1.137(b) and cannot be granted.

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

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United States Patent and Trademark Office
P.O. Box 1450
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DOWELL & DOWELL P.C.
103 ORONOCO ST.
SUITE 220
ALEXANDRIA VA 22314

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Application of	:	
SAIN, et al	:	
Application No. 11/005,520	:	ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. 17160	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 3, 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). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 4, 2009.

The petition filed December 6, 2010 and the renewed petition filed March 14, 2011, combined satisfy the requirements of 37 CFR 1.137(b) in that petitions have 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) an adequate 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 1791 for processing by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/005,562	12/06/2004	Galen C. Hunt	MS1-2348US	1679

22801 7590 08/20/2010
LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

EXAMINER
KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
2192	

NOTIFICATION DATE	DELIVERY MODE
08/20/2010	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):

lhptoms@leehayes.com

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AUG 19 2010

Technology Center 2100

Beatrice Koempel-Thomas
Lee & Hayes, PLLC
601 West Riverside, Suite 1400
Spokane WA 99201

In re Application of:	)	
Galen C. Hunt et al.	)	
Application No. 11/005,562	)	**DECISION ON PETITION**
Filed: December 6, 2004	)	**UNDER 37 CFR § 1.181**
For: OPERATING-SYSTEM PROCESS	)	
CONSTRUCTION	)	
	)	

This is a corrected decision on the petition under 37 C.F.R. § 1.181 for Withdrawal of Finality of Office filed February 26, 2010.

The petition is **GRANTED**.

On June 18, 2009, Petitioner filed a response to an Office Action mailed March 18, 2009 rejecting pending claims 1-5, 15-17, 20-22, 24-29, 38-39, 41-48 and 50-55 over Sokolov et al. and claims 6-14, 19, 23, 30-37, 40 and 49 over Sokolov in view of Pappas. Only claim 31 was amended in the response. A new non-final rejection was mailed September 9, 2009 rejecting all pending claims under 35 USC 101 as being directed to non-statutory subject matter and rejecting claims 1, 26-27, and 44 on grounds of non-statutory double patenting. No new rejections over prior art were made and the previous rejections were not maintained. Applicant filed a Terminal Disclaimer on October 6, 2009 to overcome the double patenting rejection and amended claims to overcome the rejection of claims as being directed to non-statutory subject matter.

On December 29, 2009, the examiner issued a Final Rejection of all pending claims over Sokolov et al. in view of Kavalam or in view of (Kavalam and Pappas).

I. As noted in MPEP 706.07(a),

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

In the Action mailed September 9, 2009, no claims are rejected over prior art. Amendments made in response to this action did not change the scope of the claim such that rejection of

claims over prior art in the Action mailed December 29, 2009 was warranted. Thus, applicant's amendments did not necessitate the new grounds of rejection. For these reasons, the petition is **GRANTED.** The finality of the Office Action mailed on December 29, 2009 is hereby withdrawn and the application forwarded to the examiner for further action on the response by Applicant filed March 29, 2010.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail O. Hayes/

Gail O. Hayes
Special Program Examiner/Quality Assurance Specialist
Technology Center 2100
Computer Architecture, and Software

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JAN 18 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,479,415	: DECISION ON REQUEST
Jeoung, et al.	: FOR
Issue Date: January 20, 2009	: RECONSIDERATION OF
Application No. 11/005,646	: PATENT TERM ADJUSTMENT
Filed: December 6, 2004	: and
Atty Docket No.**12579-4124**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-two (872) 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 seventy-two (872) days is **GRANTED.**

Deposit account 23-1925 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred seventy-two (872) 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 : 7,479,415 B2

DATED : Jan. 20, 2009

INVENTOR(S) : Jeoung, 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 (461) days

Delete the phrase "by 461 days" and insert – by 872 days--

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60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED
FEB 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Stafford-Fraser, et al.	:	
Application No. 11/005,736	:	DECISION
Filed/Deposited: 7 December, 2004	:	
Attorney Docket No. 16085.1.1	:	

This is a decision on the petition filed on 30 September, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application; alternatively pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.; the petition pursuant to 37 C.F.R. §1.137(b) 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 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition pursuant to 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment" and/or a "Renewed Petition pursuant to 37 C.F.R. §1.137(b) to Revive an Application Abandoned Due to Unintentional Delay."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there.

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

As to the Allegations
of Unintentional Delay

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

Petitioner appears not to have satisfied the requirements under the Rule.

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to non-final Office action mailed on 4 November, 2009, with reply due absent extension of time on or before 4 February, 2010.

The application went abandoned by operation of law after midnight 4 February, 2010.

The Office mailed the Notice of Abandonment on 31 August, 2010.

On 30 September, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred there was no need to reply pursuant to the provisions of the "Pre-Interview First Office Action"—ignoring the requirement to ask for a meeting or be deemed to have waived the request, with the resulting requirement for reply within three (3) months. Petitioner made no showing under the Rule (*see*: the guidance in the Commentary at MPEP §711.03(c)(I)). Alternatively, pursuant to 37 C.F.R. §1.137(b), Petitioner sought revival of an application abandoned due to unintentional delay, however, while Petitioner may have submitted a request (considered as a petition) and authorization for the fee and made a statement of unintentional delay, Petitioner failed to file a reply as required under the Rule (here, in the form of an amendment).

Thus, it appears that Petitioner did not comply with the guidance as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

The guidance in the Commentary at MPEP §711.03(c)(I) also provides

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

---

[1] *See*: MPEP §711.03(c) (I)(A).

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

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If Petitioner is unable to comply with and/or otherwise satisfy these requirements, Petitioner may wish to revive the application. Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

[2] *See*: MPEP §711.03(c) (I)(B).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

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.

STATUTES, REGULATIONS AND ANALYSIS

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

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

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

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegations
of Unintentional Delay

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

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**; the petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of :
Stafford-Fraser, et al. :
Application No. 11/005,736 : DECISION
Filed/Deposited: 7 December, 2004 :
Attorney Docket No. 16085.1.1 :

This is a decision on the petitions filed on 1 April, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application; alternatively pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**; the petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to non-final Office action mailed on 4 November, 2009, with reply due absent extension of time on or before 4 February, 2010.

The application went abandoned by operation of law after midnight 4 February, 2010.

The Office mailed the Notice of Abandonment on 31 August, 2010.

On 30 September, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred that there was no need to reply pursuant to the provisions of the "Pre-Interview First Office Action"—apparently ignoring the requirements under the pilot. Petitioner made no showing under the Rule (*see*: the guidance in the Commentary at MPEP §711.03(c)(I)). Alternatively, pursuant to 37 C.F.R. §1.137(b), Petitioner sought revival of an application abandoned due to unintentional delay, however, while Petitioner may have submitted a request (considered as a petition) and authorization for the fee and made a statement of unintentional delay, Petitioner failed to file a reply as required under the Rule (here, in the form of an amendment). The petitions were dismissed on 3 February, 2011.

On 1 April, 2011, Petitioner re-advanced the petition pursuant to 37 C.F.R. §1.181 and moved stepwise through a showing of the change in the "Pre-Interview First Office Action" from the original pilot regimen (1329 OG 159 (22 April, 2008)) to the regimen of the enhanced program (1347 OG 173 (20 October, 2009)), and the change that took place as to reply requirements across those two regimes. The petition in the alternative and pursuant to 37 C.F.R. §1.137(b), is moot. It is noted that Petitioner also has submitted a reply.

Petitioners always are directed to the guidance in the Commentary at MPEP §711.03(c)(I)[1] with regard to a request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181.

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[1] With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as,

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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.

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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.

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The guidance in the Commentary at MPEP §711.03(c)(I) also provides

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37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

***

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

STATUTES, REGULATIONS AND ANALYSIS

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

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

As to the Allegations of Unintentional Delay

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

It appears that this matter is moot.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **granted** and the 31 August, 2010, Notice of Abandonment hereby is **vacated**; the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed as moot**. It appears that, for reasons not evident, Petitioner twice paid the petition fee pursuant to 37 C.F.R. §1.137(b)—those fees are refunded via deposit account and credit card, respectively.

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[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Should Petitioner later find that the fee was not refunded, Petitioner should submit a request to the Office of Finance with a copy of this decision.

The instant application is released to the Technology Center/AU 2451 for further processing in due course.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7038138
Issue Date: May 2,2006
Application No. 11005812
Filed: December 7,2004
Attorney Docket No. 42P12202D2

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

This is a decision on the electronic petition, filed August 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 2,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7038138	2006-05-02	11005812	2004-12-07	P12202D2

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2010-08-08
Name	Jeffrey S. Draeger	Registration Number	41000

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

QUALIA, INC.
955 MASSACHUSETTS AVENUE
SUITE 304
CAMBRIDGE MA 02139

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Eugene E. Pettinelli, et al.	:	
Application No. 11/005,872	:	ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. QUD-001.01	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 29, 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 30, 2010. The Notice of Abandonment was mailed June 9, 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) & (4).

Item 1:

The $395 fee submitted for the filing of the RCE is insufficient. There is still $10 due to complete the filing of the RCE.

Item 4:

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

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

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

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

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Eugene E. Pettinelli) was ever given a power of attorney to act on behalf of inventor Daniel Alexander, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 15 2010

OFFICE OF PETITIONS

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

In re Application of Lee et al.	:	
Application No. 11/005,928	:	Decision on Petition
Filing Date: December 6, 2004	:	
Attorney Docket No. 200405253-1	:	

This is a decision on the petition filed April 14, 2010, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The Office issued a Notice of Allowance on December 16, 2009. The notice required submission of $1,510 for the issue fee and $300 for the publication fee. The notice set a statutory period for reply of three (3) months

The record fails to establish a reply was timely filed in response to the Notice of Allowance. As a result, the application became abandoned on March 17, 2009. The Office issued a Notice of Abandonment on April 2, 2010.

Discussion

The petition argues the application is not abandoned because a reply to the Notice of Allowance was timely submitted via facsimile transmission on January 19, 2010. The petition states the reply consisted of an issue fee transmittal sheet which authorized the Office to charge the issue fee and publication fee to Deposit Account No. 08-2025.

Petitioner has submitted:

1. A copy of the previously transmitted issue fee transmittal form, which bears a certificate of transmission signed by Angela Troyssel and dated January 20, 2010,
2. A copy of the sending unit's report confirming transmission of a single sheet of correspondence on January 20, 2010, and
3. A copy of "Auto-Reply Facsimile Transmission" from the PTO dated January 20, 2010.

One may prove the timely filing of papers by providing a showing in compliance with 37 CFR 1.8(b).

37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The instant petition does not comply with requirement (3) above. Specifically, the petition is not accompanied by a statement by the individual with personal knowledge regarding the timely transmission of the correspondence. Angela Troyssel signed the certificate of mailing. Therefore, Angela Troyssel is assumed to be the individual who forwarded the correspondence. Therefore, a statement from Angela Troyssel should be supplied with any request for reconsideration.

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

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,320,007	:	
Issue Date: January 15, 2008	:	
Application No. 11/006,268	:	NOTICE
Filed: December 7, 2004	:	
Attorney Docket No. CLVWR.004A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 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. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 05/26/11

TO SPE OF : ART UNIT: **3734 Attn: JACKSON GARY (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/006291 Patent No.: 7655014

CofC mailroom date: 09/24/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: PLEASE CHECK THE AMENDED CLAIM 1

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: Will not change scope of claims.

/Gary Jackson/ AU 3734
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

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Application of	:	
PHILYAW, Jeffry Jovan et al.	:	
Application No. 11/006,324	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,287,091	:	
Filed: December 07, 2004	:	
Attorney Docket No. RPXC - 26,999		

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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NOV 17 2010

OFFICE OF PETITIONS

GAZDZINSKI & ASSOCIATES, PC
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO CA 92127

In re Application of	:	
William Helms, et al.	:	
Application No. 11/006,404	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No.:	:	
WAR.056CP1RC1/TWC 04-11		

This is a decision on the petition filed May 7, 2010, to revive the above-identified application under the unavoidable provisions of 37 CFR 1.137(a), and alternatively under the unintentional provisions of 37 CFR 1.137(b).

The petition to revive under the unavoidable provisions of 37 CFR 1.137(a) is **DISMISSED.**

The petition to revive under the unintentional provisions of 37 CFR 1.137(b) is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Requirement for Restriction/Election (Office Action) mailed September 2, 2009. The Office Action set a period for reply of One (1) month from the mailing date thereof. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on October 3, 2009.

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

As to item (3), the Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been unavoidable. See 37 CFR 1.137(a). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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

Petitioner contends, "citing In re Mattullath, that the abandonment of the application was through "unforeseen fault or imperfection" of Applicant's agents and instrumentalities, and therefore unavoidable." Petitioner has included with the instant petition a declaration from Carrie L. DeCoro who is a paralegal associated with petitioner's law firm. A showing of unavoidable delay will require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c). The declaration by Ms. DeCoro states that the Office Action was "was never put into our docketing system." Neither the instant petition nor the declaration of Ms. DeCoro explains as to why the Office action was not added to the docketing system. No evidence has been included with the instant petition to show that the error was in fact the cause of the delay.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, the showing of record is sufficient to establish that the entire delay in filing the petition was unintentional.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office Action of September 2, 2009, is accepted as having been unintentionally delayed.

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

The petition fee of $1620 required for consideration of a petition under the unintentional provisions of 37 CFR 1.137(b), has been charged to Deposit Account No. 501423, as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4914.

This application is being referred to the Technology Center Group Art Unit 2432 for appropriate action in the normal course of business on the reply received with the instant petition.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Alston & Bird LLP)
1 Becton Drive, MC 110
Franklin Lakes NJ 07417-1880

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,588,774	:
Campbell et al.	: DECISION ON REQUEST FOR
Issue Date: September 15, 2009	: RECONSIDERATION OF
Application No. 11/006,422	: PATENT TERM ADJUSTMENT
Filed: December 6, 2004	: AND NOTICE OF INTENT
Attorney Docket No.	: TO ISSUE CERTIFICATE OF
035510/319590	: CORRECTION
Title: MOLECULES ENHANCING	:
DERMAL DELIVERY OF INFLUENZA	:
VACCINES	:

This is a decision on the petition filed on March 11, 2010, which is being treated as a petition under 37 CFR 1.181 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 fifty-three (753) days. The petition was filed within six months of the issuance of the patent.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one hundred ninety-four (194)** days is **GRANTED.**

Patentees dispute the applicant total delay of 223 days. Patentees only acknowledge 53 days of delay.

Patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges to calculations determined prior to the

notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Thus, Patentees' request for reconsideration of applicants total delay of 223-days is dismissed as untimely.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 7, 2007 and ends on April 14, 2008, the day before the RCE was filed, and is 130 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 194 days.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Cunningham 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, Ms. Cunningham desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Ms. Cunningham, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of

the above-identified patent is extended or adjusted by one hundred ninety-four (194) 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 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

Cc: Michelle L. Cunningham
Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,588,774 B2

DATED : September 15, 2009 **DRAFT**

INVENTOR(S) : Campbell 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 64 days

Delete the phrase "by 64 days" and insert – by 194 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OCT 19 2011

OFFICE OF PETITIONS

JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS MN 55402

In re Patent No. 7,182,043 :
Issued: February 27, 2007 :
Application No.: 11/006,476 : NOTICE
Filed: December 6, 2004 :
Attorney Docket No: **133.1.2/USA** :

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

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)
7201675	2007-04-10	11006512	2004-12-06	1023-002U

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 SOFER/	Date (YYYY-MM-DD)	2011-10-31
Name	Joseph Sofer, Esq.	Registration Number	34438

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. 7201675
Issue Date: April 10,2007
Application No. 11006512
Filed: December 6,2004
Attorney Docket No. 1023-002US

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

This is a decision on the electronic petition, filed October 31,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 31,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/006,609	12/08/2004	Eui Chul Kwon	262886US2	6382

22850 7590 08/23/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHAO, ELMER M

ART UNIT	PAPER NUMBER
3737	

NOTIFICATION DATE	DELIVERY MODE
08/23/2010	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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.
11006609	12/8/2004	KWON, EUI CHUL	262886US2

EXAMINER
ELMER CHAO

ART UNIT	PAPER
3737	20100818

DATE MAILED:

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

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

Commissioner for Patents

This is a decision on the petition under 37 C.F.R. 1.84(a)(2), filed April 22, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings noted as figures 1 and 10A-10C be accepted in lieu of black and white drawings.

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

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

The petition was filed with the required fee and 3 (three) sets of color drawings of figures 1 and 10A-10C. The specification, per examiner's amendment dated June 1, 2010, contains the required notification described above.

The petition is GRANTED.

Henry Yuen, SPRE
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:1

DATE : October 1, 2011

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction on Patent No.: 7,502,380

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Kwang B. Yao/ **Art Unit** 2473

UNITED STATES 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. 7096309
Issue Date: August 22,2006
Application No. 11006986
Filed: December 7,2004
Attorney Docket No. P19956XC

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

This is a decision on the electronic petition, filed October 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7069666	2006-07-04	11007526	2004-12-08	Allied002

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 J. Yarbrough/	Date (YYYY-MM-DD)	2010-09-24
Name	Robert J. Yarbrough	Registration Number	42241

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7069666
Issue Date: July 4,2006
Application No. 11007526
Filed: December 8,2004
Attorney Docket No. Allied002

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

This is a decision on the electronic petition, filed September 24,2010 ,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 24,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : June 15,2011

In re Application of :

Robert Herman

Application No : 11007582

Filed : 09-Dec-2004

Attorney Docket No : 038519-0136

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 15,2011

The request is **APPROVED.**

The request was signed by Benjamin A. Berkowitz (registration no. 59349) on behalf of all attorneys/agents associated with Customer Number 22428 . All attorneys/agents associated with Cusotmer Number 22428 have been withdrawn.

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

Name	SMITHS DETECTION INC.
Name2	
Address 1	2202 LAKESIDE BOULEVARD
Address 2	
City	EDGEWOOD
State	MD
Postal Code	21040
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11007582
Filing Date	09-Dec-2004
First Named Inventor	Robert Herman
Art Unit	1634
Examiner Name	BETTY FORMAN
Attorney Docket Number	038519-0136
Title	Autonomous surveillance system

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22428

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

10.40(b)(4)

Certifications

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

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

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

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

Name	SMITHS DETECTION INC.
Address	2202 LAKESIDE BOULEVARD
City	EDGEWOOD
State	MD
Postal Code	21040
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Benjamin A. Berkowitz/
Name	Benjamin A. Berkowitz
Registration Number	59349

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 24 2011

OFFICE OF PETITIONS

MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

In re Application of	:
Traylor	: DECISION ON PETITION
Application No. 11/007,633	:
Filed:, December 8, 2004	:
Atty. Dkt. No.: 3182.SMII.NP	:

This decision is in response to the petition under 37 CFR 1.137(b), filed February 24, 2011.

The petition is **GRANTED**.

The application became abandoned February 26, 2010 for failure to timely submit a proper reply to the non-final Office action mailed November 25, 2009. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 23, 2010.

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

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

This application is being forwarded to Group Art Unit 3746 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 05 2011

OFFICE OF PETITIONS

DLA PIPER US LLP
1999 AVENUE OF THE STARS
SUITE 400
LOS ANGELES, CA 90067-6023

In re Application of	:	
Colin P. Williams et al	:	
Application No. 11/007,638	:	ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 331326-288	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 21, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 22, 2011.

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

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

This application is being referred to Technology Center AU 2811 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed January 21, 2011 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition 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

Oppenheimer Wolff & Donnelly LLP
Attn: Barbara A. Wrigley
Plaza VII, Suite 3300
45 South Seventh Street
Minneapolis MN 55402

MAILED
MAR 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,594,974 :
Issued: 09/29/2009 :
Application No. 11/007,732 : NOTICE
Filed: 12/08/2004 :
Attorney Docket No. 22561-3421/US/6 :

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

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/007,866	12/09/2004	Michael N. Helmus	03-084 (4010/56)	1001

27774 7590 03/28/2011
MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD, NJ 07090

EXAMINER
ALAWADI, SARAH

ART UNIT	PAPER NUMBER
1619	

MAIL DATE	DELIVERY MODE
03/28/2011	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
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MAR 2 8 2011

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD NJ 07090

In re Application of:
Michael N. Helmus
Serial No.: 11/007,866
Filed: December 9, 2004
Attorney Docket No.: **03-084 (4010/56)**

: PETITION DECISION

This is in response to the petition filed by appellant under 37 CFR § 1.181(a) on February 7, 2011, requesting that the ground of rejection set forth in the Examiner's Answer be designed as a New Grounds of Rejection, pursuant to MPEP § 1207.03 (IV).

BACKGROUND

Relevant parts of the prosecution history are summarized below.

On March 29, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time this Office action was mailed, claims 1-22, 24, 25 and 27 were pending and rejected in the application. In this action, the examiner rejected claims 1 and 20 under 35 U.S.C. 103(a) as being unpatentable over Lye et al and Richard. Claims 2-6, 18-19, 21-22, 24, 25 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Lye et al and Richard. Claims 7-15 and 18-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Lye et al and Richard. Claims 16-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Lye et al and Richard, as applied to the claims above, and further in view of Pinchuk.

On May 21, 2010, applicant submitted an after final amendment including claim amendments.

On July 6, 2010, the examiner mailed an Advisory Action indicating the amendment after final of May 21, 2010 would be entered but the claims not allowed.

On August 4, 2010, a Notice of Appeal was also filed by applicant.

On August 2, 2010, a Pre-Appeal brief request for review was filed.

On September 17, 2010, a notice of panel decision was mailed indicating the application should proceed to the BPAI.

On October 15, 2010, applicant filed an Appeal Brief, appealing to the Board of Appeals from the examiner regarding the examiner's rejection of the claims.

On December 8, 2010, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner again rejected claims 1 and 20 under 35 U.S.C. 103(a) as being unpatentable over Lye et al and Richard. Claims 2-6, 18-19, 21-22, 24, 25 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Lye et al and Richard. Claims 7-15 and 18-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Lye et al and Richard. Claims 16-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Lye et al and Richard, as applied to claim 1, and further in view of Pinchuk.

In response thereto, appellant filed this petition under 37 CFR § 1.181(a) on February 7, 2011, requesting that the ground of rejection set forth in the Examiner's Answer be designed as a New Grounds of Rejection, pursuant to MPEP § 1207.03 (IV).

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on February 7, 2011, appellant argues that the Examiner's Answer mailed on December 8, 2010 contained a new ground of rejection. Appellant points out that "In the Examiner's Answer at pages 10-12, on two occasions, the Examiner cites Lau et al. U.S. 5,876,432 as evidence that "different therapeutic agents were well known to be placed on the outer and inner surface to achieve different therapeutic benefits with preference of anti-thrombotic drugs on the inside and drugs that inhibit smooth muscle cell proliferation on the outside surface." Lau et al., U.S. 5,876,432 is also listed in the "Evidence Relied Upon" section at page 3 of the Examiner's Answer.

Lau et al., U.S. 5,876,432 was not cited in the Examiner's final rejection or apparently at any other time during prosecution. Thus, the preceding use of Lau et al., U.S. 5,876,432 as evidence that "different therapeutic agents were well known to be placed on the outer and inner surface to achieve different therapeutic benefits with preference of anti-thrombotic drugs on the inside and drugs that inhibit smooth muscle cell proliferation on the outside surface" constitutes a new ground of rejection. Consequently, Appellant has been denied a full and fair opportunity to respond to the new evidence presented by the Examiner."

Appellant's point on the above issue is well-taken and persuasive. A detailed review of the Examiner's Answer shows that the examiner did set forth a new reference (i.e. Lau et al.) on pages 10-12 of the Examiner's Answer. Consequently, appellants have not been provided a fair opportunity to carefully consider and respond to this new reference included in the Examiner's Answer.

It is noted that pursuant to M.P.E.P. §1207.03 (III):

> *A new prior art reference applied or cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).*

It is thus decided that the Examiner's Answer of December 8, 2010 indeed introduced a new ground of rejection. A new ground of rejection is permissible in an Examiner's Answer; however, an Examiner's Answer containing a new ground of rejection must adhere to the provisions set forth in the MPEP concerning the placement of such new grounds of rejection in an Examiner's Answer (MPEP § 1207.03 I-III). Specifically, the new ground of rejection set forth by the examiner in the Examiner's Answer must 1) be approved by a Technology Center Director or designee, 2) specifically identify the new ground of rejection as a 'new ground of rejection,' and 3) provide applicants a two-month time period to reply to the new rejection set forth in the Examiner's answer (see MPEP § 1207.03 (I) for guidance).

Because the examiner set forth a new ground of rejection in the Examiner's Answer and because the examiner did not properly adhere to the requirements for setting forth a new ground of rejection in the Examiner's Answer as set forth above, the Examiner's Answer of December 8, 2010was improper and is hereby VACATED.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner to either issue a corrected Examiner's Answer adhering to the provisions set forth in MPEP § 1207.03 (I) for introducing a new ground of rejection in an Examiner's Answer; by issuing a corrected Examiner's Answer omitting the new ground of rejection identified herein; or alternatively, to reopen prosecution to set forth said new ground of rejection.

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

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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GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO CA 94034-1013

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Scott D. Power et al	:	
Application No. 11/007,886	:	DECISION ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No. GC741-2D1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 6, 2010, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES 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 15, 2010

Patent No. : 7,488,512 B2
Appl. No. : 11/007,961
Inventor(s) : Kenji Suzuki, et al.
Issued : February 10, 2009
Title : **METHOD FOR PREPARING SOLID PRECURSOR TRAY FOR USE IN SOLID PRECURSOR EVAPORATION SYSTEM**
Docket No. : **TTCA-011**

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
40l 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

WOOD, HERRON & EVANS, LLP (TOKYO ELECTRON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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OCT 04 2011

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Anderson, et al. : PATENT TERM ADJUSTMENT
Application No. 11/008,024 :
Filed: December 8, 2004 :
Atty Docket No.: 030592U7 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed September 30, 2011.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed August 5, 2011 indicated a patent term adjustment to date of 372 days.

However, prior to the payment of the issue fee and prior to the filing of the instant request under 37 CFR 1.705(b), applicants filed a request for continued examination (RCE) on September 21, 2011.

In view thereof, a decision is being held in abeyance until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicants must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. It is noted that as a decision on the merits has not been rendered, the fee required at 37 CFR 1.18(e) has not been assessed. Any subsequently filed request for reconsideration of the patent term adjustment must include the required fee.

Technology Center AU 2464 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

Telephone inquiries specific to this 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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P.O. Box 1450
Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Application of :
Goldman : DECISION ON PETITION
Application No. 11/008,034 :
Filed: December 9, 2004 :
Atty. Dkt. No.: 227895 :

This decision is in response to the petition under 37 CFR 1.137(b), filed September 14, 2010.

The petition is **GRANTED**.

The application became abandoned June 13, 2010 for failure to timely submit a proper reply to the non-final Office action mailed March 12, 2010. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed October 26, 2010.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See, In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being forwarded to Group Art Unit 1615 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS WRIGHT TREMAINE,
LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of	: ON APPLICATION FOR
Huang et al.	: PATENT TERM
Application No. 11/008,322	: ADJUSTMENT &
Filed: December 10, 2004	: NOTICE OF ABANDONMENT
Atty Docket No. 88910-38US0	:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)-(c), filed September 21, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred forty-two (1442) days, not one thousand one hundred eighteen (1118) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

As the application is currently abandoned and the abandonment potentially impacts several patent term adjustment calculations, the petition under 37 CFR 1.705(b) will be **held in abeyance** for one (1) month.

Applicants must file either a petition to withdraw the holding of abandonment under 37 CFR 1.181 or a revival petition under the unavoidable delay standard of 37 CFR 1.137(a) or the unintentional delay standard of 37 CFR 1.137(b) within **one (1) month** of the mailing of this decision.

The application was filed on December 10, 2004. Applicants submitted $830.00 - allocating $790.00 for the large entity basic filing fee and $40.00 for recordation of an assignment--when the application was filed. It is noted that the application was prepared on December 6, 2004. However, any fee amount paid on or after December 8, 2004 had to be paid according to a revised fee schedule. On December 10, 2004, the large entity basic filing fee was $300.00 and the assignment recordation fee remained $40.00. This left excess fees of $490.00. The Office

charged a $200.00 large entity examination fee and housed the $290.00 balance as "undetermined claim fees."

On January 26, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to the correspondence address of record. The Notice required applicants to submit a $500.00 large entity search fee within two months of the mail date of the Notice. As no reply was timely filed, the application became abandoned on March 27, 2005. No Notice of Abandonment was mailed.

On July 3, 2006, applicants filed a small entity statement.

On May 17, 2007, the Office erroneously mailed a Withdrawal of Previously Sent Notice. Since the Office was in essence, holding $290.00 of applicants' money, the Office applied $250.00 of it to the small entity search fee, which was $250.00. Instead of informing applicants that no additional fees were required because the Office was in possession of the small entity fee, the Office mistakenly informed applicants that the January 26, 2005 Notice was mailed in error.

To summarize, the application became abandoned on March 27, 2005 for failure to timely respond to the January 26, 2005 Notice to File Missing Parts of Nonprovisional Application, which required applicants to submit the $500.00 large entity search fee. Applicants did not establish small entity status until July 3, 2006. Thus, the $290.00 in excess fees did not cover the amount due at the time the Notice was mailed and the fee came due.

As the application is currently abandoned, the patent term adjustment petition will held in abeyance until the application is revived or the holding of abandonment is withdrawn.

Regarding fees: Applicants are due a refund of $440.00. The Office retained $40.00 of the originally submitted $830.00 as "undetermined claims." This fee is unnecessary and will be refunded via Treasury check. In addition, 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). No additional fees are required. The $400.00 submitted as a "request for reinstatement of term reduced" on September 21, 2010 will be refunded to applicants' deposit account.

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)

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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DAVIS WRIGHT TREMAINE,
LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	
Application No. 11/008,322	:	ON PETITION UNDER
Filed: December 10, 2004	:	37 CFR 1.137(b)
Atty Docket No. 88910-38US0	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2011, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed January 26, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on March 27, 2005. A Notice of Abandonment was mailed on April 29, 2011.

Applicants have submitted a proper reply to the January 26, 2005 Notice in the form of the search fee, an acceptable statement of the unintentional nature of the delay in responding to the January 26, 2005 Notice, and the $1,620.00 petition fee.

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

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

All requirements under 37 CFR 1.137(b) being met, the petition is granted.

Once the mail date of the present decision granting revival of the application is entered into Office databases, then the outstanding petition under 37 CFR 1.1705(b) will be addressed. This is because the date of mailing of the decision reviving the application must be known in order to calculate a reduction under 37 CFR 1.704((c)(3).

After the mailing of this decision, the file will be referred to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 10/7/2010
Patent No.	: 7,619,061 B2
Serial No.	: 11/008,351
Inventor(s)	: Hackett et al.
Issue Date	: November 17, 2009
Title	: **ANTIGEN CONSTRUCTS USEFUL IN THE DETECTION AND DIFFERENTIATION OF ANTIBODIES TO HIV**
Doc./File No.	: **6165USD1**

Re: Reconsideration for Certificate of Correction

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

Respecting the alleged error(s) in your request, in item (54) Title, it is the practice to exclude words such as "A", "IMPROVED", "IMPROVEMENTS IN," "NEW", or "NOVEL" as the first word in the title of the invention. Therefore, no correction is in order here under Rule 1.322 or 1.323.

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

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

ecw

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NOV 21 2011
OFFICE OF PETITIONS

Schlumberger/BHGL
UTAH OFFICE
222 South Main Street
Suite 1930
SALT LAKE CITY UT 84101

In re Application of	:	
Hall et al.	:	
Application No. 11/008467	:	
Filing or 371(c) Date: 12/08/2004	:	ON PETITION
Patent No. 7,308,795	:	
Issue Date: 12/18/2007	:	
Title of Invention:	:	
METHOD AND SYSTEM FOR COOLING	:	
ELECTRICAL COMPONENTS	:	
DOWNHOLE	:	

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.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: CPA GLOBAL
2318 MILL ROAD
SUITE 12 FLOOR
ALEXANDRIA, VA 22314

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.
11/008,610	12/10/2004	Charles Joseph Brennan III	026977-001100US	2257

12075 7590 07/29/2011

Morris & Kamlay LLP
1629 K ST NW
Suite 300
Washington, DC 20006

EXAMINER
ZHANG, SHIRLEY X

ART UNIT	PAPER NUMBER
2442	

DATE MAILED: 07/29/2011

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morris & Kamlay LLP
1629 K ST NW
Suite 300
Washington DC 20006

In re Application of:
Brennan
Appl. No.: 11/008,610
Filed: December 10, 2004
For: Private Domain Name Registration

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(c) filed on May 13, 2011 and a request for withdrawal of the July 08, 2011 office action.

The petition is **GRANTED**.

The May 13, 2011 Request for Continue Examination (RCE) included a check box request for a 3 month suspension. The RCE paperwork and suspension are proper. The office apparently missed the request for suspension.

The suspension has hereby been granted.

The period for suspension as requested by applicant starts from the mailing of this decision runs three months.

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

The office action mailed out on July 8, 2011 is hereby withdrawn.

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

Tod Swann, SPRE/QAS
Technology Center 2400

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Commissioner for Patents
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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Degoey et al.	:	ON APPLICATION
Application No. 11/008713	:	FOR
Filing or 371(c) Date: 12/09/2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
7263USO2	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 10, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent is 1791 days, not 774 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.

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Marjama Muldoon/PPC
250 South Clinton Street
Suite 300
Syracuse NY 13202

In re Patent No. 7,299,549
Issue Date: November 27, 2007
Appl. No: 11/008,823
Filed: December 10, 2004
For: Correction of Inventorship

This is a decision on the petition filed July 6, 2011, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Derris H. Banks/

Derris H. Banks
Supervisory Patent Examiner Art Unit 3729
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,299,549
Patented: November 27, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above-identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Noah Montena, 124 Buckingham Ave., Syracuse, NY (US) 13210 and
Stephen Malak, 2325 Pelican Dr., Sarasota, FL (US) 34237.

Derris H. Banks
Supervisory Patent Examiner
Art Unit 3729
Technology Center 3700

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United States Patent and Trademark Office
P.O. Box 1450

MAILED
NOV 17 2011
OFFICE OF PETITIONS

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

In re Patent No. 7,212,116	:	
Issue Date: May 1, 2007	:	ON PETITION
Application No.: 11/009,098	:	
Filed: December 10, 2004	:	

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 application.

The petition is **GRANTED**.

This petition expired on May 2, 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 provide in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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. In the such inquiry results in the discovery that they delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 10/08/10

TO SPE OF : ART UNIT: 2874 Attn: LE UYEN CHAU N (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/009208 Patent No.: 7347632

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

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Please check the attached Drawing

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

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

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

Comments: The Request for Certificate of Correction to correct the errors in specification and drawing for clarification purpose.

/UYEN-CHAU N. LE/ — **SPE**

2874 — **Art Unit**

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MICHAEL, BEST
& FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
O'Neal
Application No. 11/009,274
Filed/Deposited: 10 December, 2004
Attorney Docket No. 2777

DECISION

This is a decision on the petition filed on 25 June, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 13 July, 2007, with reply due absent extension of time on or before 13 October, 2007.

The application went abandoned by operation of law after midnight 13 October, 2007.

The Office mailed a Notice of Abandonment on 24 January, 2008.

On 25 June, 2010, Petitioner/new Counsel Gayle A. Bush (Reg. No. 52,677) filed, *inter alia*, revocation/power of attorney (with certificate pursuant to 37 C.F.R. §3.73(b)), a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with a declaration/statement by former Counsel Kenneth J. Stachel (Reg. No. 27,722) with regard to unintentional delay as well, with reply in the form of an amendment, and made the statement of unintentional delay (with history).

The record (including the petition filed on 25 June, 2010) does not necessitate a finding that the delay between midnight 13 October, 2007 (the date of abandonment), and 25 June, 2010 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Gayle A. Bush (Reg. No. 52,677) and former Counsel Kenneth J. Stachel (Reg. No. 27,722) when accepting Petitioner's representation that the delay in filing the response was unintentional.[1]

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 3723 in due course.

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

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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United States Patent and Trademark Office
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MICHAEL A. NELSON
TEKTRONIX, INC.
14150 SW KARL BRAUN DRIVE
P.O. BOX 500, M/S 50-LAW
BEAVERTON, OR 97077

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Waschura et al.	:	
Application No. 11/009,381	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. WASC18767	:	

This is a decision in response to a petition under 37 CFR 1.137(b), filed August 17, 2010, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record discloses that a Notice of Allowance and Fee(s) Due was mailed on April 27, 2010, which set a shortened statutory period for reply of three (3) months. Therefore, the response in the form of the issue and publication fees payment filed July 23, 2010 is considered timely. Since no abandonment exists, the petition under 37 CFR 1.137(b) is unnecessary. The duplicate payment of the issue and publication fees of $1055 and petition fee of $810 will be credited to counsel's credit card account.

This instant application issued as Patent Number 7,788,571 on August 31, 2010.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: DOUGLAS CHAIKIN
PENINSULA IP GROUP
26150 BUCKS RUN
CORRAL DE TIERRA, CA 93908

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MAY 20 2011
OFFICE OF PETITIONS

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

In re Application of	:	
Le Nestour et al.	:	
Application No. 11/009,390	:	ON APPLICATION FOR
Filed: December 13, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088734-1116	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed April 25, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred fourteen (814) days, not five hundred fourteen (514) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

Deposit account no. 19-0741 will be charged the required $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).

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498

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FEB 14 2011

OFFICE OF PETITIONS

In re Patent of Witte et al.	:	
Patent No. 7,741,449	:	
Issued: June 22, 2010	:	
Application No. 11/009,410	:	ON APPLICATION FOR
Filed: December 10, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 077375.0182	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed August 23, 2010, in which patentees request that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred sixty-nine (669) 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 sixty-nine (669) days is **dismissed**.

Patentees dispute the 158 day period of reduction associated with the filing of a complete response to the February 14, 2006 Notice to File Missing Parts of Nonprovisional Application.

On April 8, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application that required applicants to submit an executed oath or declaration, late filing fees, and a sequence listing. On June 8, 2005 applicants filed a response. The response is not present in the application file. However, applicants have provided an itemized date stamped post card receipt showing that the Office received, *inter alia*, a declaration, late filing fees, sequence listing (diskette and paper copy), a statement under 37 CFR 1.821(f) and a preliminary amendment on June 8, 2005.

On February 14, 2006, the Office mailed a second Notice to File Missing Parts of Nonprovisional Application, requesting applicants submit an executed oath or declaration, late filing fees, and a sequence listing.

On April 14, 2006, applicants filed a response to the February 14, 2006 Notice. It is noted that the response was a copy of the items submitted on June 8, 2005.

On September 14, 2006, the Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, notifying applicants that the computer readable form (CRF) of the sequence listing was damaged and requesting a new CRF.

On September 19, 2006, applicant filed a new CRF.

Applicants hypothesize that the April 14, 2006 CRF was likely damaged en route to the Office and argue that the April 14, 2006 reply should not be considered a response containing an omission under 37 CFR 1.704(c)(7). Applicants assert they should not be penalized by the Office's failure to notify applicants that the CRF was damaged.

In this instance, applicants failed to engage in reasonable efforts to conclude processing of the application by failing to completely reply to the February 14, 2006 Notice within the three-month period provided for in 37 CFR 1.704(b). Applicants filed a partial response on April 14, 2006. The CRF filed on April 14, 2006 was blank, not damaged or unreadable, according to the April 19, 2006 CRF Problem Report by the Biotechnology Systems Branch of the Scientific and Technical Information Center (copy enclosed). Had the CRF been damaged en route to the Office, the "Nature of the CRF Problem" selected on the CRF Problem Report would have been "Damaged or Unreadable" - not "Blank".

The Office attempts to notify applicants of its receipt of incomplete responses in a timely fashion. However, it is applicants' burden to file proper responses to Office actions/Notices within specified time frames. Applicants did not file a complete response until September 19, 2006. The September 14, 2006 Notice to Comply did not set forth a new requirement. It merely pointed out that applicants had failed to file an acceptable CRF in response to the February 14, 2006 Notice.

Accordingly, the period of adjustment was properly reduced by 158 days pursuant to 37 CFR 1.704(c)(7), counting the number of days beginning on the day after the date the initial reply to the February 14, 2006 Notice to File Missing Parts of Nonprovisional Application was filed, April 15, 2006, and ending on the date that the acceptable CRF was filed, September 19, 2006.

In view thereof, the patent term adjustment remains **five hundred eleven (511) days** (618 days of A delay + 197 days of B delay - 304 (158+33+61+8+44) days of Applicant delay).

The Office acknowledges receipt 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) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: copy of STIC Biotechnology Systems Branch CRF Problem Report - date processed by STIC: 4/19/06 - 2 pages

STIC Biotechnology Systems Branch

CRF Problem Report

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 11/009,410
Filing Date: 12/10/2004
Date Processed by STIC: 04/19/2006

STIC Contact: **Mark Spencer: Telephone: 571-272-2510; Fax: 571-273-0221**

Nature of CRF Problem:

____ (circle one) Damaged or Unreadable (for Unreadable, see attached)
✓ Blank (no files on CRF) (see attached)
____ Empty file (filename present, but no bytes in file) (see attached)
____ Wrong file saved to CRF (invention title, docket number, or applicant(s) do not match those in official application) (see attached)
____ Not saved in ASCII text
____ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should **only** be the Sequence Listing.
____ Did not contain a Sequence Listing. (see attached sample)
____ Other:

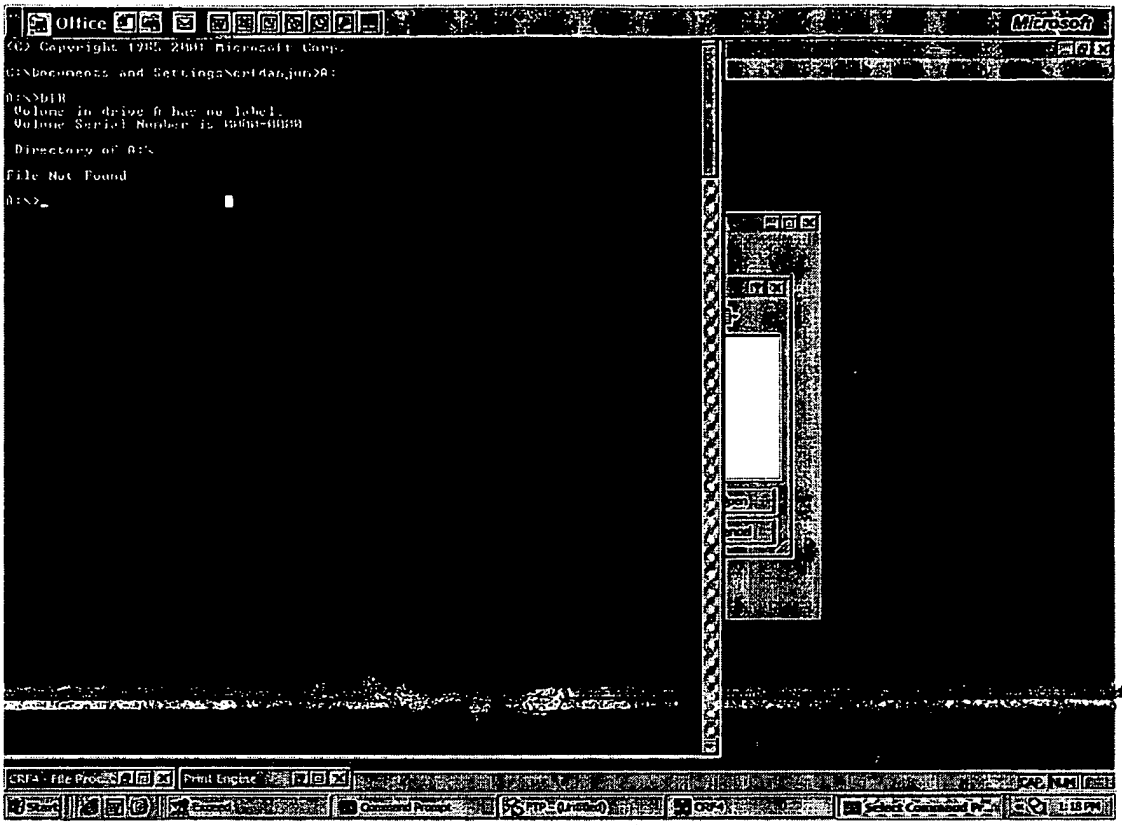
PLEASE USE THE CHECKER VERSION 4.4.0 PROGRAM TO REDUCE ERRORS. SEE BELOW FOR ADDRESS:
http:/www.uspto.gov/web/offices/pac/checker/chkrnote.htm

1. EFS-Bio (<http://www.uspto.gov/ebc/efs/downloads/documents.htm>, **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service**: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. **Hand Carry, Federal Express, United Parcel Service, or other delivery service (EFFECTIVE 01/14/05):** U.S. Patent and Trademark Office, Mail Stop Sequence, Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314

Revised 01/20/06

Sample of Submitted file

11/009,410 A
I FWO
4/19/200



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JUN 1 5 2011

Henry M Feiereisen
708 Third Avenue, Suite 1501
New York, NY 10017

In re Application of	:	
KANT et al.	:	RESPONSE TO PETITION
Application No. 11/009,422	:	TO EXPUNGE FILED
Filed: December 10, 2004	:	UNDER 37 CFR § 1.59(b)
For: SPUR-GEAR MECHANISM	:	

This is a response to the petition under 37 CFR § 1.59(b), filed October 30, 2009 to expunge information from the above identified application.

Petitioner requests that "the Information Disclosure Statement filed electronically on April 18, 2008" be expunged from the record because it "was filed in error."

A proper petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) must contain:

(A) a statement 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;
(B) a clear statement that the information to be expunged has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) statement as to why the information to be expunged is not material information under 37 CFR 1.56; and
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

The decision on the petition <u>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.</u>

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.

In the meantime, the document will be closed whereby any non-Patent and Trademark Office personnel will be precluded from viewing or having access to the document, such as via public PAIRs.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the petition complies with requirements (A)-(E) above and the information is considered by the examiner to not be material, the information will be removed from the official file.

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

DT/tl: 06/08/11

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,483,095	:	
Issued: January 27, 2009	:	
Application No. 11/009,515	:	NOTICE
Filed: December 13, 2004	:	
Attorney Docket No.: P-6380-US	:	

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Prep and Pros Group
Scott A. Schlack
4632 159th St. S.W.
Lynnwood WA 98087

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Steven M. Allaway, et al.	:	DECISION ON PETITION
Application No. 11/009,547	:	TO WITHDRAW
Filed: December 9, 2004	:	FROM RECORD
Attorney Docket No. **IAG 301**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed January 8, 2011.

The request is **NOT APPROVED**.

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

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Peter Ackerman**
1800 Blankenship Rd.
Suite 375
West Linn, OR 97068

UNITED STATES 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 PREP AND PROS GROUP
SCOTT A. SCHLACK
4632 159TH ST. S.W.
LYNNWOOD WA 98087

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Steven M ALLAWAY, et al	:	
Application No. 11/009,547	:	DECISION ON PETITION
Filed: December 9, 2004	:	TO WITHDRAW
Attorney Docket No. IAG 301	:	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 2, 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 Scott A. Schlack on behalf of the attorneys of record associated with Customer Number 85738.

The attorneys of record associated with Customer Number 85738 have been withdrawn.

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

The correspondence address for future communications from the Office has been changed and the new correspondence address is the address first indicated below.

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: INNOVATION ASSET GROUP, INC.
26055 SW CANYON CREEK RD.,
SUITE #200
WILSONVILLE OR 97070

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
11/009,547	12/09/2004	Steven M. Allaway	IAG 301

CONFIRMATION NO. 8302

POWER OF ATTORNEY NOTICE

OC000000045867950

85738
Patent Prep and Pros Group
Scott A. Schlack
4632 159th St. S.W.
Lynnwood, WA 98087

Date Mailed: 02/07/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/02/2011.

- 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Brian Chess, et al.	:	DECISION ON PETITION
Application No. 11/009,572	:	TO WITHDRAW
Filed: December 10, 2004	:	FROM RECORD
Attorney Docket No. FOSO-001/04US	:	
304358-2004		

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed December 6, 2010.

The request is **NOT APPROVED**.

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

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

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

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FORTIFY SOFTWARE, INC.**
2730 Sand Hill Road
Menlo, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of	:	
CHESS, et al	:	
Application No. 11/009,572	:	DECISION ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. FOSO-001/04US	:	
304358-2004		

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 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 February 23, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 23, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 24, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

As authorized, the petition fee of $1620 will be charged to Deposit Account No. 08-2025.

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

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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
www.uspto.gov

PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Flentge	:	
Application No. 11/009,841	:	DECISION
Filed/Deposited: 10 December, 2004	:	
Attorney Docket No. 7264.US.O2	:	

This is a decision on the petition filed on 18 August, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application; alternatively, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

As to the Allegations
of Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees) mailed on 11 April, 2005, with reply due absent extension of time on or before 11 June, 2005.

The application went abandoned by operation of law after midnight 11 June, 2005.

The Office mailed the Notice of Abandonment on 5 January, 2006.

(It appears that over the period of some sixty-two (62) months following the date of abandonment (after midnight 11 June, 2005) the extent of Petitioner's actions herein was to file Status Inquiries on 18 July, 2006, and on 11 January, 2010.)

On 18 August, 2010, Petitioner filed, *inter alia*, a petition:

- pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, with a further averment that Petitioner submitted on transmittal of the application an incorrect Customer Number (to wit: incorrectly 23,495, rather than correctly 25,482);

- alternatively, pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of fees due, and made the statement of unintentional delay.

As to the petition pursuant to 37 C.F.R. §1.181, Petitioner failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

The record (including the petition filed on 18 August, 2010) does not necessitate a finding that the delay between midnight 11 June, 2005 (the date of abandonment), and 18 August, 2010 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Applicants Flentge, Chen, DeGoey, Flosi, Grampovnik, Huang, Kempf, Klein, Krueger, Madigan, Randolph, Sun, Yeung and Zhao and their Counsel/Petitioner Xu Zhang (Reg. No.

Lim. Rec. No. Lo1116) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

As to the petition pursuant to 37 C.F.R. §1.181, Petitioner is directed to in the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2] (Emphasis supplied.)

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[2] *See*: MPEP §711.03(c) (I)(A).

made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

As to Allegations of Unintentional Delay

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

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

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**. Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

---

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

The instant application is released to the Office of Patent Application Processing OPAP for further processing in due course.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,875,448 B2
Ser. No. : 11/009,915
Inventor(s) : Furey
Issued : Jan. 25, 2011
Title : BIOREACTOR SYSTEMS AND DISPOSABLE BIOREACTOR
Docket No. : 1502-2
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AEXIUS, LLC
904 Silver Spur Rd. #310
Rolling Hills Estates CA 90274

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of :
Coleman :
Application No. 11/010,161 :
Filed: December 13, 2004 :
Attorney Docket No. N62898-US :
For: CANTILEVER BEAM SCALE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to reply to the final Office action, mailed January 22, 2007, which set an extendable three month period for reply. Accordingly, this application became abandoned on April 23, 2007. A Notice of Abandonment was mailed on September 20, 2007.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Petitioner is reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance. Examiner Gibson has indicated that the reply filed May 12, 2010 fails to place the application in *prima facie* condition for allowance. Please see the enclosed Advisory Action Before the Filing of an Appeal Brief for more details.

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

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)

Telephone inquiries concerning 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: Advisory Action Before the Filing of an Appeal Brief for Application No. 11/010,161

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/010,161	Applicant(s) COLEMAN, NATE JOHN	
	Examiner Randy W. Gibson	Art Unit 2841	

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

THE REPLY FILED 12 May 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 5 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *unchanged*.
   Claim(s) objected to: *unchanged*.
   Claim(s) rejected: *unchanged*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Randy W. Gibson/
Primary Examiner, Art Unit 2841

Continuation of 3. NOTE: (1) Amended claim 1 now recites in part, "...wherein said sensors does not measure vertical shear stress"; this limitation was not found in any of the previously filed claims. (2) Amended claim 3 recites, "a metering and/or display device used to detect the outputs of said at least two tensile strain sensors and said at least two compressive strain sensors"; this new limitation was not found in any of the previous claims. (3) Claim 8 is amended to recite the geometry of the receiver hole; this limitation was not addressed before. (4) Claim 9 amended to include several new limitations not mentioned previously in any of the claims. (5) Several of the newly amended claims are now indefinite because of the newly added term "bridge-type". MPEP 2173.05(b)(E).

Continuation of 13. Other: The applicant's request for withdrawing the finality of the last office action is in error and is DENIED. In his response filed on 21 November 2006, Applicant had amended the originally filed claims to recite that the device was "moble or vehicle mounted", which required a new search, and a new grounds of rejection. Since none of the originally filed claims even remotely mentioned this limitation, applicant's reliance on 37 CFR 1.104(c)(2) to imply that the new search requirement was the examiner's fault seems missplaced. .

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904 Silver Spur Rd. #310
Rolling Hills Estates CA 90274

MAILED

FEB 01 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Coleman :
Application No. 11/010,161 :
Filed: December 13, 2004 :
Attorney Docket No. N62898-US :
For: CANTILEVER BEAM SCALE

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 8, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to reply to the final Office action, mailed January 22, 2007, which set an extendable three month period for reply. Accordingly, this application became abandoned on April 23, 2007. A Notice of Abandonment was mailed on September 20, 2007.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Petitioner is reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance. Examiner Gibson has indicated that the reply filed May 12, 2010 and remarks in the present reconsideration petition fail to place the application in *prima facie* condition for allowance. Please see the enclosed Advisory Action Before the Filing of an Appeal Brief for more details.

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)

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief for Application No. 11/010,161

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/010,161	Applicant(s) COLEMAN, NATE JOHN	
	Examiner Randy W. Gibson	Art Unit 2841	

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

THE REPLY FILED 12 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *unchanged*.
   Claim(s) objected to: *unchanged*.
   Claim(s) rejected: *unchanged*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Continuation of 3. NOTE: Applicant admits in his remarks that the claims presented in his latest proposed amendment contain newly added features which do not appear to have been mentioned before in any of the previously presented claims. For example, the proposed amendment to independent claims 1 & 9 have the new feature that the sensors "does not measure vertical shear stress" and where the sensors are "not [located] in a longitudinally-orientated hole". These features were not claimed before, and have not previously been considered. Applicant's proposed amendment also adds new features to almost every claim that is new to the prosecution of this case.

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments as to why the "finality" of the last office action should be withdrawn, with all due respect, does not seem to make sense. Applicant's argument is that claims 7-11 were not actually "amended" by the latest amendment, since they were entirely "new" claims that were "added" to the application by the last amendment. As adding entirely new claims by amendment is the same thing as "amending the claims", then applicant's reasoning seems to have no legal or logical basis. Since any examiner obviously has to change his grounds of rejection in the next office action to include any claims that have been newly added by the latest amendment, then any new claims added by amendment are considered to be an "amendment to the claims" in the context of MPEP 706.07(a) (note that it says any amendment to "the claims" (plural), NOT just to any amendment to the wording of an existing claim only -- since adding entirely new claims is considered to be "an amendment to THE CLAIMS" by definition.). Otherwise an applicant could prolong prosecution indefinitely by simply adding a new claim with each new amendment. This practice is obviously not allowed. Since applicant has admitted that claims 1-6 were changed by amendment, and that all of claims 7-11 were entirely new, as they were newly added to the prosecution history by the same amendment, then applicant cannot argue that he got a different grounds of rejection for any of the same claims that had been originally presented -- applicant is admitting that the set of claims in the last amendment were different that the ones originally filed. When applicant changed the originally filed claims by adding features that had not be previously claimed, and then added entirely new claims, then he changed the invention that he was claiming, so he forced the examiner to make an entirely new rejection -- so it was applicant's amendment that forced the new grounds of rejection to be made.

It is also not clear how applicant is applying 37 CFR 1.104(c)(2) to say that the last office action was prematurely made final, as the part of the rule cited by the applicant says nothing about when to make an action final or not. The reason why the references to Kurtsay, Bradley and Johnson were not earlier cited, is simply that these references did not apply to the invention that applicant had originally claimed. When applicant amended the original claims, and added new ones, he changed what he considered to be his invention, so the references cited by the examiner obviously changed to reflect this. The examiner cannot find anything in rule 1.104, or any other rule, that requires an examiner to guess as to which unclaimed features buried somewhere in the written description that the applicant might consider to be important in the future, or any rule that requires the examiner to clutter the official record with numerous background references in the hope that one of them might prove to be relevant to future claims which haven't been written yet. The examiner's search, and his decision as to which references to apply and/or cite are driven solely by the claims that the applicant chooses to present to the Patent Office. It is the language of the claims that tell the USPTO which features that the applicant wants to be searched, and there is no rule that requires an examiner to look for irrelevant tangential references that will simply clutter the prosecution history with too much information. With all due respect, the applicant could avoid such problems in the future by filing a complete set of claims in the first place, rather than surprising an examiner with an entirely new set of expanded claims in a later filed amendment that contain details not mentioned anywhere in any of the dependent claims before - at least not in the configuration claimed. An overly broad, general set of claims produces a broad search and a general rejection. A detailed claim, by contrast, generates a detailed search and a specific rejection. From MPEP 608.01(m): "Many of the difficulties encountered in the prosecution of patent applications after final rejection may be alleviated if each applicant includes, at the time of filing ... claims varying from the broadest to which he or she believes he or she is entitled to the most detailed that he or she is willing to accept."

Applicant had originally claimed merely a cantilever beam with stress or strain sensors attached (claim 1), and the dependent claims originally recited had merely described a "metering and/or display device" that combined and displayed the output of the multiple sensors on the cantilever beam of claim 1. So the examiner concentrated his initial search on cantilevered force sensors (mainly class 73, subclasses 862.634 et seq., & the sensor portions of class 177). Then applicant amended his original set of claims on 21 November 2006 to change the invention to either a vehicle mounted device, or a device mounted on a mobile platform, which meant that he was now claiming a specific mobile weighing SYSTEM (class 177, subclasses 136 et seq.), instead of just a specific type of sensor which could be a component in any given system in any generic environment, forcing a new search, and a new rejection. So the finality of the last rejection was proper, because it was applicant's amendment alone that had forced a new search, new references to be found, and a the new grounds of rejection to be made.

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Rolling Hills Estates CA 90274

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of :
Coleman :
Application No. 11/010,161 :
Filed: December 13, 2004 :
Attorney Docket No. N62898-US :
For: CANTILEVER BEAM SCALE

ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to reply to the final Office action, mailed January 22, 2007, which set an extendable three month period for reply. Accordingly, this application became abandoned on April 23, 2007. A Notice of Abandonment was mailed on September 20, 2007.

Applicant has submitted a RCE and required $405.00 fee and amendment in reply to the January 22, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the January 22, 2007 final Office action, and the $810.00 petition fee. All requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 2841 for consideration of the RCE and amendment filed on April 1, 2011.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,134,430	2006-11-14	11/010,195	2004-12-09	4856-0102PUS1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Leonard R. Svensson/	Date (YYYY-MM-DD)	2011-01-20
Name	Leonard R. Svensson	Registration Number	30330

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. 7134430
Issue Date: November 14,2006
Application No. 11010195
Filed: December 9,2004
Attorney Docket No. 4856-0102PUS1

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

This is a decision on the electronic petition, filed January 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Devarapalli, et al.	:	
Application No. 11/010,594	:	ON REQUEST FOR
Filed: December 13, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 39700-778F01US	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 14, 2010. Applicants believe that they should be accorded an additional PTA of 62 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 **four hundred eighty-one (481) days** (490 days of PTO delay, reduced by 9 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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P.O. Box 1450
Alexandria, VA 22313-1450
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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

MAILED

APR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Jonathan L. Edwards	:	
Application No. 11/010,786	:	DECISION ON PETITION
Filed: December 13, 2004		TO WITHDRAW FROM RECORD
Attorney Docket No. 04.032.01 (920-0097US)	:	
	:	

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 25, 2011.

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

A review of the file record indicates that on March 30, 2011 the power of attorney to Zilka-Kotab, PC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: McAfee-Wong Cabello Lutsch Rutherford & Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MCAFEE-WONG CABELLO LUTSCH
RUTHERFORD & BRUCCULERI, LLP
20333 TOMBALL PARKWAY, 6TH FLOOR
HOUSTON, TX 77070

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of :
Jonathan L. EDWARDS :
Application No. 11/010,786 : DECISION ON PETITION
Filed: December 13, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **04.032.01 (920-0097US)** :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 24, 2001, as required by the Notice of Allowance and Fee(s) Due, mailed February 24, 2011. Accordingly, the date of abandonment of this application is May 25, 2011.

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 21 2010

OFFICE OF PETITIONS

PEPPER HAMILTON LLP
ONE MELLON CENTER
50TH FLOOR
500 GRANAT STREET
PITTSBURGH PA 15219

In re Application of	:	
Andrew R. Blight	:	DECISION ON PETITION
Application No. 11/010,828	:	
Filed: December 13, 2004	:	
Attorney Docket No. 127304.02601	:	

This is in response to the "REQUEST FOR CORRECTED DECISION ON PETITION UNDER 37 C.F.R. 1.47 AND 35 U.S.C. 118", filed June 4, 2010.

The request is **DISMISSED**.

The petition under 37 CFR 1.47(a) is **DISMISSED** as moot.

No one in the application is a non-signing inventor. Inventor Cunningham has been deleted as an inventor in the application. As such, the decision mailed on January 5, 2009 was proper, and will not be corrected.

Further correspondence with respect to this matter should be addressed to the address below. Please note that pursuant to 37 CFR 1.2, all communications should be transacted in writing.

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

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

The application is being returned to Group Art Unit 1611.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

AcordaJD
Jones Day
222 East 41st Street
New York NY 10017

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of :
Blight et al. :
Application No. 11/010,828 : ON APPLICATION FOR
Filed: December 13, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 12952-003-999 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed May 6, 2011. Applicant requests reconsideration in part on the basis that the Office will take in excess of three years to issue the patent. Applicant also discloses that an additional period of reduction should have been entered pursuant to 37 CFR 1.704(c)(8) for applicant filing a supplemental paper on April 2, 2009 (115 days after filing of an initial reply on December 8, 2008).

The request for reconsideration of patent term adjustment under 37 CFR §1.705(b) is **GRANTED to the extent indicated herein**. The patent term adjustment at the time of the mailing of the notice of allowance is **two hundred ninety-eight (298)** days.

The record has been reviewed and it is concluded that applicant is correct that an additional period of reduction of 115 days for applicant delay in filing a supplemental paper on April 2, 2009 is warranted. Pursuant to this decision, the 115 day reduction has been entered.

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

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

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

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

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

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).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

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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Paper No.

AcordaJD
Jones Day
222 East 41st Street
New York NY 10017

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Blight et al.	:	
Application No. 11/010,828	:	LETTER REGARDING
Filed: December 13, 2004	:	FEE DEFICIENCY PAYMENT
Atty Docket No. 12952-003-999	:	

This is in response to the paper styled "SUBMISSION UNDER 37 C.F.R. § 1.28(c)" filed April 27, 2011, which is properly treated as a notification of loss of entitlement to small entity status.

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.

This letter includes an itemization of the fee deficiencies and payment as required by 37 CFR 1.28(c)(2)(ii).

Your notification of a loss of entitlement to small entity status is made of record and your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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INNOVAR, LLC
P O BOX 250647
PLANO, TX 75025

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Feleder et al.	:	
Application No. 11/010,829	:	DECISION ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. PhUS-113	:	

This is a decision on the petition, filed June 9, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Non-final Office action mailed September 29, 2009, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on May 4, 2010.

Petitioner asserts that the Office action dated September 29, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner at the correspondence address of record;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

The petition satisfies the above-stated requirements. In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center AU 1612 for appropriate action in the normal course of business on the reply received June 9, 2010.

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

Carl Friedman
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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of :
John B. Simpson :
Application No. 11/010,833 :
Filed: December 13, 2004 :
Attorney Docket No. 34668-501007US :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed April 28, 2011

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (*See* USPTO Form PTO/SB/82). However, the Office will only accept correspondence address changes to the most current address Information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71*[1], 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. Therefore, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

There is an Office action mailed on March 11, 2011, that requires a reply from the applicant.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Ev3 Inc.
9600 54th Avenue North
Plymouth, MN 55442

Terry L. Wiles
Popovich, Wiles & O'Connell, P.A.
8519 Eagle Point Blvd., Suite 180
Lake Elmo, MN 55042

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Pieter Van Rooyen	:	DECISION ON APPLICATION
Application No. 11/010,855	:	FOR
Filed: 12/13/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
16338US01	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed November 28, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 107 days to 230 days.

The request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance is DISMISSED.

On September 2, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 107 days.

On November 28, 2011, applicants timely submitted the present application for patent term adjustment.[1] Applicants request that the initial Determination of Patent Term Adjustment be corrected from 107 days to 230 days. Applicants aver that the Office erred in failing to calculate an adjustment of 123 days (199 days less 76 overlapping days) pursuant to 37 CFR 1.702(e).

[1] PALM records indicate that the Issue Fee was received on November 28, 2011.

Specifically, applicants assert:

> After a notice of appeal of the final rejection to the Board of Patent Appeals and Interferences was filed on September 8, 2010, but before any decision was issued by the Board of Patent Appeals and Interference, the Office reopened prosecution and issued an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 on March 25, 2011. The patent term adjustment on this ground should be the difference between the two dates stated above, plus one day, which is 199 days.

Petition, 11/28/11, p. 2. Applicants acknowledge that the current rule, 37 CFR 1.703(b)(4), does not explicitly provide a patent term adjustment in this situation. However, applicants cite to the proposed rules that would allow for a patent term adjustment under these circumstances. *See Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg.* 18990 (April 6, 2011).

The Office has carefully considered applicants' arguments. However, as applicants acknowledge, the current statute and rules of practice do not provide for the requested adjustment of the patent term. Therefore, the petition must be dismissed at this time.

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, applicants 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 37 CFR 1.136.

In view thereof, no change in the initial determination of patent term adjustment is merited. The patent term adjustment at the time of the mailing of the notice of allowance remains 107 days.

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/06/11

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction for Appl. No.: 11010951 Patent No.: 7276754

CofC mailroom date's: 10/04/10 and 10/07/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

- [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

9/9/2011

Kenneth Parker 2815

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

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

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of :
Sollenberger et al. : DECISION
Application No. 11/010,992 : ON APPLICATION FOR
Filed: December 13, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 16139US02 :
Title: SYSTEM AND METHOD OF :
REDUCING THE RATE OF :
INTERRUPTS GENERATED BY A :
DEVICE IN MICROPROCESSOR :
BASED SYSTEMS :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed January 6, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, six hundred and ten (1610) days, not five hundred and thirty-five (535) 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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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.

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

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Jonathan L. Edwards :
Application No. 11/010,993 :
Filed: December 13, 2004 :
Attorney Docket No. NAI1P339/04.034.01 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2011.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because there was no forwarding correspondence address. The forwarding address should be that of that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: P20425/1020P20425	Patent Number: 7,668,102
Filing Date (or 371(b) or (f) Date): 12-13-2004	Issue Date: 02-23-2010
First Named Inventor: Qinghua Li	
Title: TECHNIQUES TO MANAGE RETRANSMISSIONS IN A WIRELESS NETWORK	

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

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

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

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

Signature /Stuart A. Whittington/	Date July 9, 2010
Name (Print/Typed) Stuart A. Whittington	Registration Number 45,215

***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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KACVINSKY DAISAK PLLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 09/10/2010

Applicant	: Qinghua Li	: DECISION ON REQUEST FOR
Patent Number	: 7668102	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/011,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1078** 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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CARLSON, GASKEY & OLDS/MASCO CORPORATION
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

MAILED
NOV 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,516,939 :
Issue Date: April 14, 2009 :
Application No. 11/011,410 : ON PETITION
Filed: December 14, 2004 :
Attorney Docket No. 601.7-205;115-3731-U :

This is a decision on the request for Certificate of Correction, filed April 27, 2009, which is being treated as a petition 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 petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Masco Canada Limited."

Since the failure to include the name of the assignee was the fault of petitioner's, a processing fee of $130 is required for treatment of the instant request. Therefore, the assignee information will be not be added until petitioner supplies the above processing fee in accordance with 37 CFR 1.17(i).

As authorized, $100 for the Certificate of Correction fee has been charged to petitioner's deposit account.

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

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

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

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

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL MN 55133-3427

In re Application of	:	
Ryan E. Marx et al	:	
Application No. 11/011,538	:	DECISION GRANTING PETITION
Filed: December 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60227US002	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 1762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

ATTENTION OF TIMOTHY R. CONRAD
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Patent No. 7,036,515	:	
Application No. 11/011,741	:	
Filed: December 14, 2004	:	ON PETITION
Issued: May 2, 2006	:	
Attorney Docket No. 13033.1US13	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 25, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 3, 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
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GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD CT 06902

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Javier E. Castaneda, et al.	:	
Application No. 11/011,917	:	DECISION GRANTING PETITION
Filed: December 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. HAN-041	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, May 23, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 12, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: TI-37821	Patent Number: 7,668,126
Filing Date (or 371(b) or (f) Date): 12-14-2004	Issue Date: 02/23/2010
First Named Inventor: Jin-Meng Ho	
Title: BEACON COORDINATION AND MEDIUM ACCESS	

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

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

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

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

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

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

☑ *Total of 1 forms are submitted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 08/17/2010

Applicant	: Jin-Meng Ho	: DECISION ON REQUEST FOR
Patent Number	: 7668126	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/011,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **970** 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 : 11/1/10

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. N. 11/012217.-Pt. 7571751B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Magdalene Talley
Certificates of Correction Branch
571 272-0423

Thank You For Your Assistance

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

X **Approved** — **All** changes apply.

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

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

Comments: _____

/Dana Ross/ 3725

SPE **Art Unit**

Formatted: Indent: Left: 88 pt, No bullets or numbering

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MORGAN LEWIS & BOCKIUS LLP (WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20001

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Byoung-Chul Kim	:	
Application No. 11/012,344	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. 053785-5210	:	

This is a decision on the petition, filed April 8, 2011 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 in a timely manner to the Notice of Allowance/Notice of Allowability mailed December 20, 2010. A copy of an Interview Summary (PTO-413) accompanied the above on December 20, 2010. A Notice of Abandonment was mailed on April 4, 2011.

Applicant files the present petition and states that "The Notice of Abandonment indicated that the application is abandoned in view of Applicant's alleged failure to timely file corrected drawings. However, Applicant respectfully asserts that the Notice of Abandonment is erroneous and should be withdrawn.

First, while box 5(a)(1) was checked on the Notice of Allowability (PTOL-37) mailed December 20, 2010, Applicant respectfully asserts that there are no drawing requirements in or attached to the Notice of Allowability. Moreover, no drawing requirements appear in the image file wrapper (IFW) of the Patent Application Information Retrieval (PAIR) database. Second, Applicant's undersigned representative contacted the Examiner by telephone on January 13, 2011, and the Examiner indicated that the box should not be checked and no corrected drawings are needed."

However, 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). Therefore, **petitioner must respond to any outstanding requirement in writing.** In this instance, the Office is **not** in receipt of a reply in writing to the Notice of Allowability mailed December 20, 2010.

Regrettably, and in view of the above, the petition under 37 C.F.R. 1.181 to withdraw holding of abandonment is dismissed.

Petitioner may 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 $1,620.00 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 delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN LEWIS & BOCKIUS LLP (WA)
KAREN CATALANO
III PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Byoung-Chul Kim	:	
Application No. 11/012,344	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. 053785-5210	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance/Notice of Allowability mailed December 20, 2010, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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: ITL.0886D1US (P15115D)	Patent Number: 7,667,319
Filing Date (or 371(b) or (f) Date): 12-15-2004	Issue Date: 02-23-2010
First Named Inventor: R. Scott List	
Title: ELECTROOSMOTIC PUMP USING NANOPOROUS DIELECTRIC FRIT	

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 /Kerry Tweet/	Date July 12, 2010
Name (Print/Typed) Kerry Tweet	Registration Number 45,959

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

☑ *Total of 1 forms are submitted.

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 09/13/2010

Applicant	: R. Scott List	: DECISION ON REQUEST FOR
Patent Number	: 7667319	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/012,519	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY UT 84101

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Shane r. Robbins et al.	:	
Patent No. 7,193,857	:	NOTICE
Application No. 11/012,591	:	
Filed: December 15, 2004	:	
Attorney Docket No. **3299.2.1.3**		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 March 03, 2011.

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

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SILCON GRAPHICS INTERNATIONAL CORP.**
ATTN. LEGAL DEPT.
46600 LANDING PARKWAY
FREMONT CA 94538

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)
7131377	2006-11-07	11012779	2004-12-15	A-4087

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)	2011-03-31
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. 7131377
Issue Date: November 7,2006
Application No. 11012779
Filed: December 15,2004
Attorney Docket No. A-4087

:
: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
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Otterstedt, Ellenbogen & Kammer, LLP
P.O. Box 98
East Northport NY 11731

MAILED
MAR 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael J. Berman, et al.	:	
Application No. 11/012,838	:	DECISION ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. 1003-0639	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 6, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 7, 2010. See MPEP 1215.04.

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

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

This application is being referred to Technology Center AU 2893 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 30 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Oommen	:	
Application No. 11/012,932	:	ON APPLICATION FOR
Filed: December 15, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 005245.00025	:	
Title: METHOD FOR OVER THE	:	
AIR MOBILE STATION MANAGEMENT	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(d) and 1.183," both filed concurrently on July 21, 2010. Applicant petitions under 37 C.F.R. § 1.183 for suspension of the requirement under 37 C.F.R. § 1.705(b) that any request for reconsideration of the patent term adjustment indicated in the notice of allowance be filed no later than the payment of the issue fee. Further, Applicant requests that the patent term adjustment be corrected from zero (0) days to nine hundred and eighty-seven (987) days, as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent.[1]

[1] The filing of a request for patent term adjustment *as it relates to the Office's failure to issue the patent within 3 years of the filing date* is premature. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 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.

In addition, Applicant contends that one period of applicant delay was improperly assigned.

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED**.

The petition pursuant to 37 C.F.R. § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

Applicant is given **THIRTY (30) DAYS** to respond to this decision. No extension of time will be granted under 37 C.F.R. § 1.136(a).

RELEVANT STATUTE AND RULES

35 U.S.C. § 154(b)(3)(B) sets forth, *in toto*:

> Under the procedures established under subparagraph (A), the Director shall-
> (i) make a determination of the period of any patent term adjustment under this subsection, and shall transmit a notice of that determination with the written notice of allowance of the application under section 151; and
> (ii) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director.

37 C.F.R. § 1.183 sets forth, *in toto*:

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

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. 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).

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

OPINION

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*.

On March 23, 2010, the Office mailed the initial 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 0 days. The issue fee payment was received in the Office on June 17, 2010. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended upon payment of the issue fee on June 17, 2010.

On July 21, 2010, Applicant filed the present petition, requesting waiver of the requirement of 37 C.F.R. § 1.705(b). Applicant argues that this Rule should be waived "[g]iven the amount of patent term adjustment that the Applicants are [sic: Applicant is] entitled to in the instant application and the short delay in filing this paper."[2] Applicant gave no reason why the petition pursuant to 37 C.F.R. § 1.705(b) could not have been filed in a timely manner.

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[2] Petition, page 1.

Having considered Applicant's petition, it is concluded that in this instance waiver of the requirement that the application for patent term adjustment be filed prior to payment of the issue fee is not appropriate. Applicant has not shown that the circumstance of the failure to comply with the time period for filing an application for patent term adjustment set forth in 37 C.F.R. § 1.705(b), is an extraordinary situation for which justice requires waiver.

The requirement that the application for patent term adjustment be filed prior to payment of the issue fee is clearly and unambiguously set forth in Rule 1.705(b). Applicant's argument that the Rule should be waived because it was filed only a "short" while after the expiration of the deadline for filing this petition is not persuasive. Applicant's failure to follow the rules does not present an extraordinary situation where justice would require the waiver of the rules.

Likewise, Applicant's argument that the Rule should be waived because of the "amount of patent term adjustment" Applicant believes he is entitled to is not persuasive. This assertion misses the point, as it focuses on the consequences of Applicant's untimely action with the question of whether Applicant's situation (which came about as a direct result of a failure to comply with 37 C.F.R. § 1.705(b)) constitutes an extraordinary situation such that justice requires the waiver of the Rule.

A review of the record dos not reveal any problem with the initial calculation of the PTA warranting waiver of the Rule. A review of the record supports a conclusion that both the initial determination of patent term adjustment and the PAIR system at the time of mailing of the notice of allowance showed that the Office had determined that the patent issuing from this application was entitled to zero (0) days of PTA. Applicant was thereby given notice of the Office's calculation of PTA, including notice that the Office had accorded a 609-day reduction in accordance with the filing of an Information Disclosure Statement (IDS) on September 19, 2008.[3] There was no reasonable basis for Applicant to conclude that the calculation of zero (0) days of PTA would be changed absent the filing of an

[3] The reference on the third page of this petition to an IDS that was filed on February 16, 2006 is presumed to be a typographical error, as a review of the electronic record does not support a finding that an IDS was submitted to the Office on this date.

application for patent term adjustment prior to payment of the issue fee.

No error on the part of the Office led to Applicant's failure to timely file an application for patent term adjustment. Nor has Applicant shown that any extraordinary situation prevented him from timely filing. Under these circumstances, justice does not require that Applicant's failure to timely file an application for patent term adjustment be treated any differently than any other applicant. Waiver of the requirement is not warranted.

The facts of record do not support an extraordinary situation. From what few facts there are of record, there is nothing extraordinary about a registered practitioner who is faced with a deadline, and has limited time to submit a paper to the Office to preserve his rights. Moreover, there is nothing extraordinary about a practitioner who failed to act in concert with published regulations.

The Office concludes that this situation does not constitute an extraordinary situation such that justice requires the waiver of the Rule.

As there is no dispute that this application for PTA was filed after payment of the issue fee and it has been concluded that waiver of the requirement is not warranted, it is appropriate to dismiss this application for patent term adjustment as being untimely filed. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR § 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. § 154(b)(2)(A), 75 Fed. Reg. 5043 (Feb. 1, 2010)* (notice). Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010)* up to 180 days after the grant of the patent. The USPTO determined not to accept any requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes

that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. § 154(b)(4) represents the outer limit on the USPTO's ability to consider a patentee's initial request for PTA determination {to conclude its PTA determination}.

In view thereof, it is concluded that the initial determination of Patent Term Adjustment of zero (0) days will not be reconsidered.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) and the $400.00 fee set forth in 37 CFR 1.17(f). No additional fees are required.

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

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

Anthony Knight
Director
Office of Petitions

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.
11/013,122	12/15/2004	Osvaldo Colavin	04-LJ-049	2324

7590 03/24/2011

Lisa K. Jorgenson, Esq.
STMicroelectronics, Inc
1310 Electronics Drive
Carrollton, TX 75006-5039

EXAMINER
LINDLOF, JOHN M

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
03/24/2011	PAPER

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

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

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

Lisa K. Jorgenson, Esq.
STMicroelectronics, Inc
1310 Electronics Drive
Carrollton TX 75006-5039

In re Application of: COLAVIN et al.	)	
Application No. 11/013122	)	Petition under 37 CFR 1.324
Patent No. 7594102	)	
Attorney Docket No. **04-LJ-049**	)	
Filed: December 15, 2004	)	
For: **METHOD AND APPARATUS FOR VECTOR EXECUTION ON A SCALAR MACHINE**	)	

In view of the papers and petition filed August 31, 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 "William L. Schubert, Jr.," as co-inventors, such that the current inventorship is now Colavin, Osvaldo (San Diego, CA), Rizzo, Davide (San Diego, CA), Sonl, Vineet (San Diego, CA); Schubert, William L., Jr. (Oceanside, CA)

The petition has been **Granted**.

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

Inquiries to this decision may be directed to undersigned at (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

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

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Patent of D'Zmura :
Patent No. 7,083,415 :
Issue Date: August 1, 2006 :
Application No. 11/013,275 :
Filing Date: December 15, 2004 :
For: Stars in Ecliptic Coordinates :

Decision on Petition

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

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Patent of D'Zmura :
Patent No. 7,083,415 :
Issue Date: August 1, 2006 : Decision on Petition
Application No. 11/013,275 :
Filing Date: December 15, 2004 :
For: Stars in Ecliptic Coordinates :

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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VEDDER PRICE PC
222 N. LASALLE STREET
CHICAGO, IL 60601

MAILED
NOV 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Robert C. Bogash, et al.	:	
Application No. 11/013,285	:	DECISION GRANTING PETITION
Filed: December 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 39218.00.0011	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 12, 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 6, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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CHICAGO, IL 60601

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APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert C. BOASH, et *al.*	:	
Application No. 11/013,285	:	DECISION GRANTING PETITION
Filed: December 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **39218.00.0011**	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 21, 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 3651 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.*

Electronic Acknowledgement Receipt

136A

EFS ID:	9946463
Application Number:	11013285
International Application Number:	
Confirmation Number:	1185
Title of Invention:	INTEGRATED, NON-SEQUENTIAL, REMOTE MEDICATION MANAGEMENT AND COMPLIANCE SYSTEM
First Named Inventor/Applicant Name:	Robert C. Bogash
Customer Number:	23418
Filer:	Christopher P. Moreno/Evelyn Stenseth
Filer Authorized By:	Christopher P. Moreno
Attorney Docket Number:	39218.00.0011
Receipt Date:	25-APR-2011
Filing Date:	15-DEC-2004
Time Stamp:	13:44:50
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$810
RAM confirmation Number	19
Deposit Account	220259
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Petition to Withdraw from Issue	PetitionW-D.pdf	27808 05f8533f89fc0189ee0f4e0895a0b512e23f54a2	no	1
Warnings:					
Information:					
2	Request for Continued Examination (RCE)	RCEW-D.pdf	72525 c973a0afdb656ea955b75f2f0db5ea4d6db b7f06	no	2
Warnings:					
This is not a USPTO supplied RCE SB30 form.					
Information:					
3	Transmittal Letter	IDSTransW-D.pdf	33346 49f489f49d27d934031086cc5088a620b11bfe7b	no	1
Warnings:					
Information:					
4	Information Disclosure Statement (IDS) Filed (SB/08)	IDSW-D.pdf	137422 e092f672c005e925e47c1601f7c3e911e236db0a	no	3
Warnings:					
Information:					
This is not an USPTO supplied IDS fillable form					
5	Foreign Reference	JP10201827.pdf	1566556 5eb61661cf524dcec7c6c5fa9ce9fe292f499e74	no	24
Warnings:					
Information:					
6	Foreign Reference	JP2001101144.pdf	2110984 1378b8cc6ba9751c831170c34ce49949dca874bb	no	30
Warnings:					
Information:					
7	Foreign Reference	WO02078595A2.pdf	1780091 14ee3be46aa482d1b9d3cb501d6b45da5f02a782	no	46
Warnings:					
Information:					

8	NPL Documents	JPOfficeAction2011.pdf	101736 5a4e604aa7dcd42d74da57d3a7d149f7c8fe18ea	no	2
Warnings:					
Information:					
9	Fee Worksheet (PTO-875)	fee-info.pdf	30761 5ea253a7c22ff2b746ad0255d0d0165f4373f867	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	5861229		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110201

DATE : February 01, 2011

TO SPE OF : ART UNIT 2481

SUBJECT : Request for Certificate of Correction on Patent No.: 7561780

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

The change to claim 66, at column 18 lines 29-40, has not been approved because the "information" recitation set forth in lines 29-30 of column 18 appears to be correct. More specifically, it appears that the requested correction to column 18 should have identified --lines 39-40-- (and not "lines 29-40").

/Peter-Anthony Pappas/
Supervisory Patent Examiner.Art Unit 2481

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): 11/013,403	Patent Number (if applicable):
First Named Inventor: Shuhei Yamamoto	Title of Invention: Nucleic Acid Analysis Apparatus

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	Date May 13, 2011
Name (Print/Typed) Mark J. Thronson	Practitioner Registration Number 33,082

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.

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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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006-5403

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Yamamoto et al.	:	
Application No. 11/013,403	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. H6808.0067/P067	:	

This is a decision on the request filed May 13, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 14, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 1775 for re-mailing the Office action of December 14, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: 42P10451D	Patent Number: 7,664,269
Filing Date (or 371(b) or (f) Date): 12-15-2004	Issue Date: 02-16-2010
First Named Inventor: Matthew D. Wood	
Title: ENCRYPTING MESSAGE FOR SECURE TRANSMISSION	

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 /Crystal D. Sayles/	Date 7/9/2010
Name (Print/Typed) Crystal D. Sayles	Registration Number 44,318

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

✓ *Total of 1 forms are submitted.

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

Mail Date: 08/17/2010

Applicant	: Matthew D. Wood	: DECISION ON REQUEST FOR
Patent Number	: 7664269	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/013,572	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **858** 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
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Paper No.

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

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,650,542	:	DECISION ON REQUEST
Sweet et al.	:	FOR
Issue Date: 01/19/2010	:	RECONSIDERATION OF
Application No. 11/013,586	:	PATENT TERM ADJUSTMENT
Filed: 12/16/2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
16056US01	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 7, 2010, which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by eight hundred ninety-seven (897) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by seven hundred seventy-one (771) 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 seventy-one (771) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on December 17, 2007, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on January 19, 2010, the date the application issued as a patent, or 765 days. Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On August 22, 2007, a notice of appeal was filed. On January 11, 2008, 143 days after the date the notice of appeal was filed, a non-

final Office action was mailed. On October 10, 2008, a notice of appeal was filed. On January 7, 2009, 90 days after the date the notice of appeal was filed, a non-final Office action was mailed. Accordingly, the excluded period for appeal is 233 (143 + 90) days, and the "B" delay period is 532 (765 - 233) days.

The patent term adjustment at the time of issuance of the patent is 771 (329 days of Office delay + 532 days of over three years delay - 90 days of applicant delay) days.

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

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred seventy-one **(771)** days.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,650,542 B2

DATED : **Jan. 19, 2010** **DRAFT**

INVENTOR(S) : Sweet 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 675 days.

Delete the phrase "by 675 days" and insert – by 771 days--

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Commissioner for Patents
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Paper No.

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

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,650,542	:	DECISION ON REQUEST
Sweet et al.	:	FOR
Issue Date: 01/19/2010	:	RECONSIDERATION OF
Application No. 11/013,586	:	PATENT TERM ADJUSTMENT
Filed: 12/16/2004	:	
Atty Docket No.	:	
16056US01	:	

This is a decision on the petition filed on October 21, 2010, which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventeen (917) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of seven hundred seventy-one (771) days.

Patentees dispute the period of time excluded from B delay for appellate review. Patentees' argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (*e.g.*, the filing of a request for continued examination). In this instance the period consumed by appellate review is 233 days, consisting of (a) the 143 day period

beginning on August 22, 2007, the date of filing of the notice of appeal and ending on January 11, 2008, the subsequent date a non-final Office action was mailed, and (b) the 90 day period beginning on October 10, 2008, the date of filing of the notice of appeal and ending on January 7, 2009, the subsequent date of the mailing of a non-final Office action. Thus, B delay is 532 (765 - (143 + 90)) 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) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petition

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.
11/013,628	12/15/2004	Charles D. Ellis	40062.0278US01/MS310090.1	6148

7590 11/05/2010
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
DESAI, RACHNA SINGH

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
11/05/2010	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

November 4, 2010

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:	
Charles D. Ellis, et al	:	**DECISION ON PETITION**
Application No. 11013628	:	
Filed: 12/15/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **40062.0278US01/MS310090.1**	:	***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) December 15, 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 PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/013,632	12/16/2004	Opinder Kishan Bhan	TH2825 (US)	4742

23632 7590 01/13/2011
SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 772522463

EXAMINER
SINGH, PREM C

ART UNIT	PAPER NUMBER
1771	

MAIL DATE	DELIVERY MODE
01/13/2011	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte OPINDER KISHON BHAN et al

Application 11/013,632
Technology Center 1700

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181(a)," filed October 28, 2010 ("Petition"). The Petition seeks withdrawal of the holding of abandonment. Petition, p. 1. The Petition will be treated as a petition to the Chief Administrative Patent Judge under 37 C.F.R. §§ 1.181(a) or 41.3 (withdraw holding of abandonment) or, alternatively, under 37 C.F.R. § 1.137(a) (unavoidable delay). *See* 75 Fed. Reg. 15,690 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On December 30, 2009, Appellants filed an Appeal Brief.

2. On January 21, 2010, a Patent Appeal Specialist entered a Notification of Non-Compliant Appeal Brief. The notification granted Appellants a period of one month within which to file a corrected brief, i.e., until February 22, 2010 (February 21, 2010 being a Sunday).

3. Having received no response to the Notification of Non-Compliant Appeal Brief, on October 18, 2010, the Examiner entered a Notice of Abandonment.

4. Appellants' counsel states that he never received the Notification of Non-Compliant Appeal Brief. Petition. p. 2.

5. On October 28, 2010, Appellants filed the present Petition and a corrected Appeal Brief. The corrected Brief is compliant with applicable rules.

RELEVANT AUTHORITY

MPEP § 1207.02 provides that:

The examiner should furnish the appellant with a written statement in answer to the appellant's brief with 2 months after receipt of the brief by the examiner.

37 C.F.R. § 1.181(a) provides that:

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

37 C.F.R. § 41.3 provides that:

(b) *Scope.* This section covers petitions on matters pending before the Board (§§ 41.35, 41.64, 41.103, and 41.205); otherwise, see §§ 1.181 to 1.183 of this title.

In respect to revival of an unavoidably abandoned application, 37 C.F.R. § 1.137(a) provides that:

> (a) *Unavoidable.* If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in § 1.17(l);
> (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

In respect to revival of an unintentionally abandoned application, 37 C.F.R. § 1.137(b) provides that:

> (b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in § 1.17(m);
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

In *Barbacid v. Brown*, 223 Fed.Appx. 972, 973 (Fed. Cir. 2007), the Federal Circuit held:

> [T]he duty to monitor the status of the case falls on [the party to the case]. *See, e.g.*, *Witty v. Dukakis*, 3 F.3d 517, 521 (1st Cir. 1993) (. . . "parties to an ongoing case have an independent obligation to monitor all developments in the case").

DISCUSSION

The application became abandoned on February 23, 2010 as a result of Appellants' failure to timely respond to the Notification of Non-Compliant Appeal Brief.

The first requirement for obtaining withdrawal of the holding of abandonment under 37 C.F.R. §§ 1.181(a) and/or 41.3, is that Appellants must present evidence that the Notification of Non-Compliant Appeal Brief was not received. *See, e.g.*, MPEP § 711.03(c)(I)(A) (applicable evidence described). The only relevant evidence presented by Appellants is the unsworn statement of Appellants' attorney. Lacking an appropriate evidentiary showing, withdrawal of the holding of abandonment is inapplicable.

Further, revival under 37 C.F.R. § 1.181(a) and/or § 41.3 is inappropriate because Appellants have not alleged that any action or requirement of the Office was incorrect or inappropriate.

Also relevant to the request for withdrawing the holding of abandonment is the reasonableness of the delay in seeking such withdrawal from the date of abandonment. Patent applicants have a duty to periodically check the file of a pending application (PAIR) to determine if a document that is expected from the Office has been entered in the file, *i.e.*, an

examiner's answer. *See Barbacid* at 973. Here a delay of almost nine months in checking the file of an application to determine if an examiner's answer has been filed is considered to be an unreasonably long delay. As noted above, examiners are expected to prepare and mail examiner's answers within two months after receiving an appeal brief.

Unlike the situation in *Barbacid*, however, Appellants' response to the Notification of Non-Compliant Appeal Brief is not a prerequisite to the Office retaining jurisdiction over this matter. Therefore, under appropriate circumstances, even though the application is abandoned, it can be revived under 37 C.F.R. § 1.137(a) or § 1.137(b).

Revival under 37 C.F.R. § 137(a), requires, *inter alia,* an evidentiary showing that the delay was unavoidable. *See* MPEP § 711.03(c)(II)(C). Again, other than the unsworn statement of Appellants' attorney, Appellants have provided no evidence establishing that the delay in responding to the Notification of Non-Compliant Appeal Brief was unavoidable.

DECISION

In view of the foregoing, the Petition is DENIED. Appellants are granted a period of one month in which to file a renewed petition under 37 C.F.R. § 1.137(a), seeking revival of an unavoidably abandoned application, including appropriate evidence establishing unavoidability, or under 37 C.F.R. § 1.137(b) seeking revival of an unintentionally abandoned application. Should Appellants decide to file a renewed petition, they are advised to be careful to include all elements required by the applicable rule, *i.e.*, 37 C.F.R. § 1.137(a) or § 1.137(b).

James T. Moore
Acting Chief Administrative Patent Judge

Richard B. Taylor
Shell Oil Company
P.O. Box 2463
Houston, TX 77252-2463

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of

Bhan, et al.

Application No. 11/013,632

Filed: December 16, 2004

Attorney Docket No. **TH2825(US)**

: 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-cited application became abandoned for failure to reply in a timely manner to Notification of Non-Compliant Appeal Brief mailed January 21, 2010, which set a shortened period for reply of one (1) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on February 22, 2010. A Notice of Abandonment was mailed October 18, 2010.

The appeal brief filed February 8, 2011, is noted.

The application 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/05/2010

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/013,765 Patent No. 7,627,592

CofC mailroom date 12/23/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: All changes have been approved. The changes do not affect the scopes of claims

John E. Breene

JOHN BREENE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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 20 2010

OFFICE OF PETITIONS

In re Application of :
Zhu :
Application No. 11/013,768 :
Filed: December 16, 2004 :
Attorney Docket No. 1576US02 :
Title: SYSTEM AND METHOD FOR :
AUTOMATIC FILTER GENERATION :
USING SAMPLED SINC FUNCTION :
WITH WINDOWED SMOOTHING :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed July 21, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand six hundred thirty-one (1,631) days, not one thousand sixty-five (1,065) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

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

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

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

---

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

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

---

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wyeth LLC/MH2 Technology Law Group, LLP
1951 Kidwell Drive
Suite 550
Tysons Corner, VA 22181

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Patent of Kenneth Jacobs et al.	:	DECISION ON REQUEST
Patent No. 7,585,646	:	FOR RECONSIDERATION OF
Issue Date: September 8, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/013,920	:	AND NOTICE OF INTENT TO
Filing Date: December 17, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. WYT-109-02	:	CORRECTION

This decision is in response to the "Request for Reconsideration" filed May 19, 2010, stating the correct patent term adjustment is five hundred seventy-four (574) days.

The request is **GRANTED to the extent indicated herein**.

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

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

The patent issued September 8, 2009. The patent set forth a patent term adjustment of 350 days.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" form was filed February 10, 2010.

A decision responding to the February 10, 2010 request was mailed April 20, 2010. The decision stated the Office had determined the patent term adjustment is 481 days.

The instant request was timely filed on May 19, 2010, and asserts the correct patent term adjustment is 534 days.

The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") does not include any time consumed by appellate review. Although Patentees recognize the need to exclude the time period consumed by appellate review from the period of delay, Patentees failed to exclude the actual date the notice of appeal was filed. Since the date the notice of appeal was filed is not part of the period of B Delay, the period of B Delay is 415 days, not 416 days, and the patent term adjustment is 573 days, not 574 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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **five hundred seventy-three (573)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

cc: Timothy B. Donaldson
Latimer IP Law, LLP
P.O. Box 711200
Herndon, VA 20171

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,585,646 B2
APPLICATION NO.	:	11/013,920
DATED	:	September 8, 2009
INVENTOR(S)	:	Kenneth Jacobs et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 350 days.

Delete the phrase "by 350 days" and insert -- by 573 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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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 :
Shuo Wang et al. :
Patent No. 7,180,389 : NOTICE
Application No. 11/013,930 :
Filed: December 17, 2004 :
Attorney Docket No. **01640499AA**

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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DEC 12 2011

OFFICE OF PETITIONS

Johnson & Associates
317A East Liberty Street
Savannah GA 31401

In re Application of :
Grandcolas et al. :
Application No. 11/014,127 :
Filed: December 16, 2004 :
Attorney Dkt. No. CITI-0284 :
For: METHOD AND SYSTEM FOR :
SECURE AUTHENTICATION OF A USER :
BY A HOST SYSTEM :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed December 1, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from nine hundred fifty-nine (959) days to one thousand four hundred eighty-four (1,484) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

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

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

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

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

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

---

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

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

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

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

Charlema Grant
Attorney Advisor
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)
7297834	2007-11-20	11014191	2004-12-15	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John W. Crosby/	Date (YYYY-MM-DD)	2012-04-19
Name	John W. Crosby	Registration Number	49058

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. 7297834
Issue Date: November 20,2007
Application No. 11014191
Filed: December 15,2004
Attorney Docket No. PHY-010CIA

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

This is a decision on the electronic petition, filed April 19,2012 ,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 19,2012 . 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

MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER,
SUITE 2800
SAN FRANCISCO CA 94105

MAILED
JUL 14 2011
OFFICE OF PETITIONS

In re Patent No. 7,183,544 :
Issue Date: February 27, 2007 :
Application No. 11/014,225 :
Filed: December 17, 2004 :
Attorney Docket No. 062499-5012US :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on May 3, 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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

SEP 07 2010

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

In re Application of	:	DECISION ON REQUEST
Xue	:	FOR SUPERVISORY REVIEW
Application No. 11/014,322	:	PURSUANT TO
Filed: December 16, 2004	:	37 C.F.R. § 1.181
Patent No. 7,576,089	:	and
Issued: August 18, 2009	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. INCY0008-100	:	CERTIFICATE OF CORRECTION
(PC019502A)	:	
Title: 3-	:	
CYCLOALKYLAMINOPYRROLIDINE	:	
DERIVATIVES AS MODULATORS OF	:	
CHEMOKINE RECEPTORS	:	

This is in response to the "REPLY TO DECISION ON REQUEST FOR PTA RECALCULATION," filed on May 20, 2010. Patentee requests that the patent term adjustment be corrected from six hundred and forty-five (645) days to an unspecified number of days.

This submission is being treated as a request for supervisory review pursuant to 37 C.F.R. § 1.181.

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 and twenty-one (1121) days is **GRANTED to the extent indicated herein**.

On April 7, 2009, the Office mailed the initial 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 645 days. The issue fee payment was received in the Office on July 7, 2009 and the patent issued on

August 18, 2009. The 180-day anniversary of the issuance of this patent was February 14, 2010. On February 22, 2010, a Request for Recalculation of Patent Term Adjustment in view of Wyeth was received in the Office, and it is noted that the Request for Recalculation contains a certificate of mailing dated February 16, 2010. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH," which indicated that the request was "deemed ineligible for consideration," due to the fact that it was not timely filed.

With this petition, Patentee disputes this finding, and argues that the "Request for Recalculation was NOT (emphasis included) filed more than 180 days after the grant date of the patent," due to the fact that February 14, 2010 fell on a Sunday, and February 15, 2010 fell on a federal holiday: as such, February 16, 2010 was the next business day, and Patentee cites to 37 C.F.R. § 1.7

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

The Office notes that the decision of April 21, 2010 was issued in error as the aforementioned request for reconsideration was timely filed. The present decision supersedes the decision mailed on April 21, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is **one thousand, one hundred and twenty-one** (1121) days (708 examination delay + 611 "B" delay - 135 overlap - 63 Applicant delay).

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

The 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 **one thousand, one hundred and twenty-one (1121) days**.

The $200 fee pursuant to 37 C.F.R. § 1.18(e) was not received, and it is noted that no fee is required.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,576,089 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Xue 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 645 days

Delete the phrase "by 645 days" and insert – by 1121 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 14 2011

OFFICE OF PETITIONS

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

In re Application of	:	
Opinder Kishan Bhan, et al.	:	
Application No. 11/014,365	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. TH2820 (US)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2011, to revive the above-identified application.

The petition is **GRANTED.**

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 21, 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. Accordingly, the date of abandonment of this application is October 22, 2010.

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

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

This application is being referred to Technology Center AU 1771 for processing of the Notice of Appeal and Appeal Brief filed herewith petition.

/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

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

MAILED
MAR 27 2012
OFFICE OF PETITIONS

In re Application of :
Shi Xia Liu, et al. :
Application No. 11/014,522 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. CN920030017US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2012, 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 16, 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 17, 2009. The Notice of Abandonment was mailed October 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/543,881.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/1/2011

TO SPE OF : ART UNIT 1762 David Wu

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/014901 Patent No.: 7812103

CofC mailroom date: 10/19/2010

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

Note: _____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

D. Wu — **SPE**

1762 — **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

Decision Date : June 16,2011

In re Application of :

Patrick Armstrong

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11014904

Filed : 20-Dec-2004

Attorney Docket No : 1634.1013

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 16,2011 , 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 2156 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	11014904
Filing Date	20-Dec-2004
First Named Inventor	Patrick Armstrong
Art Unit	2156
Examiner Name	KUEN LU
Attorney Docket Number	1634.1013
Title	DATA SEMANTICIZER

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	/Mehdi D. Sheikerz/
Name	Mehdi D. Sheikerz
Registration Number	41307

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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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 Tower Blvd.
Suite 1200
DURHAM NC 27707

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Patent No. 7,864,665 :
Issue Date: January 4, 2011 :
Application No. 11/015,296 : DECISION ON PETITION
Filed: December 17, 2004 :
Attorney Docket No. 1497/13/3 :

This is a decision on the Request For Correction Of Assignee Under M.P.E.P. §1481.01 and Request For Certificate Of Correction Of Patent Under 37 C.F.R. §1.323, filed January 21, 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 (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. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Tekelec, Morrisville, NC (US)"

to:

--GENBAND US LLC, Plano, TX (US)--

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

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

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

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. 7,864,665.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/5/2010

TO SPE OF : ART UNIT 1614 Ardin Marschel

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/015328 Patent No.: 7648993

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

N. Ray
Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: _____

Ardin H. Marschel
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

_____ **SPE**

1636 **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.
11/015,413	12/17/2004	Raanan A. Miller	SION-P01-058	7161

7590 01/31/2011

ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON, MA 02199-3600

EXAMINER
JOHNSTON, PHILLIP A

ART UNIT	PAPER NUMBER
2881	

NOTIFICATION DATE	DELIVERY MODE
01/31/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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January 27, 2011

ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

In re Application of	:	
Raanan A. Miller, et al	:	**DECISION ON PETITION**
Application No. 11015413	:	
Filed: 12/17/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **SION-P01-058**	:	***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) December 17, 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.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

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

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Zur et al.	:	
Application Number: 11/015444	:	ON APPLICATION FOR
Filing Date: 12/17/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
15410US02	:	

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 5, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased from 888 days to 1086 days. Applicants request this correction, in part, on the basis that the Office will issue the application as a patent on December 7, 2010.

The request is **DISMISSED**.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or

applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of

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

the mailing of the Notice of Allowance, the request is **DISMISSED**.

On May 27, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 888 days (942 days of PTO delay and 54 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants aver that the period of reduction of three days of applicant delay for filing a response on January 4, 2010, three months and 3 days after the day after the date of mailing of the Office action mailed on October 1, 2009, should be removed, as the due date for filing a reply to the Office action fell on a holiday, January 1, 2010, and the response was timely filed on January 4, 2010.

Applicant's position has been considered, but is not persuasive.

MPEP 2732 states, in pertinent part:

> 37 CFR 1.704(b) provides that with respect to the ground for adjustments set forth in 37 CFR 1.702(a) through (e), and in particular 37 CFR 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude prosecution 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.… 37 CFR 1.704(b) indicates that the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date 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. As discussed above, a reply is considered filed on the

[2] PALM Records indicate that the issue fee was paid on August 16, 2010.

> date of its actual receipt in the Office as defined by 37 CFR 1.6, and the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will not be taken into account for patent term adjustment purposes.

Likewise, while 37 CFR 1.7(a) sets the time period for reply, it does not govern the determination of patent term adjustment. Simply put, the fact that the due date for a reply fell on a date more than three months from date the Office communication was mailed has no bearing on the determination of patent term adjustment.

It is undisputed that an Office action was mailed on October 1, 2009, and that a reply was filed on January 4, 2010, three months and 3 days after the day after the date that the Office action was mailed. Accordingly, the reduction of 3 days for applicant delay is warranted and will not be removed.

Accordingly, no change will be made to the patent term adjustment at the time of mailing of the Notice of Allowance.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

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Paper No.

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SUITE 3400
CHICAGO IL 60661

MAILED
MAR 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,852,856	:	
El Zur et al.	:	DECISION ON APPLICATION
Issue Date: 12/14/2010	:	FOR PATENT TERM ADJUSTMENT
Application No. 11/015,444	:	AND
Filed: 12/17/2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.	:	CERTIFICATE OF CORRECTION
15410US02	:	

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 CFR § 1.704(d))" filed on February 7, 2011. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 1696 days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred ninety-two (1692) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated**.

On December 14, 2010, the above-identified application matured into U.S. Patent No. 7,852,856. The instant request for reconsideration filed on February 7, 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 1587 days.

Patentees contend that that the reductions in patent term adjustment for the filing of the amendment and corrected

drawings after the mailing of the notice of allowance of 15 and 105 days, respectively, are incorrect. Patentees content that the period of reduction for the filing of the amendment after the mailing of the notice of allowance should be 14 days rather than 15 days. Patentees further content that there should be no reduction for the filing of the corrected drawings.

Patentees' contention is persuasive, to the point indicated.

37 CFR 1.704 states, in pertinent part:

> (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:
>
> ...
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, **beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper**; or
>
> (ii) Four months; and
>
> ...
>
> (emphasis added)

Accordingly, applicant delay is calculated as the lesser of the number of days between the date (not the day after the date) the amendment under 37 CFR 1.312 is filed, and the date the Office mails a communication in response to the amendment under 37 CFR 1.312, or four (4) months.

A review of the record reveals that on August 16, 2010, an amendment after the mailing of the notice of allowance was filed. Also on August 16, 2010, corrected drawings were filed. A paper in response to the amendment after the mailing of the notice of allowance was mailed on August 30, 2010, 15 days after the date the amendment after the mailing of the notice of allowance was filed. Therefore, applicants' contention that the period of applicant delay should be 14 days rather than 15 days is unpersuasive. The 15 day period of reduction for applicant delay is warranted and will not be removed.

Under the circumstances of this case, the paper mailed on August 30, 2010 in response to the amendment or other paper after the mailing of the notice, will be considered to also be in response to the drawings. Therefore, the 105 day period of reduction is not warranted and will be removed.

The patent term adjustment at the time of issuance of the patent is 1692 days (942 days of Office delay + 1093 days of three years delay - 274 overlapping days - 69 (3 + 51 + 15) days of applicant delay) days.

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

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating

that the term of the above-identified patent is extended or adjusted by one thousand six hundred ninety-two **(1692)** days.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,852,856 B2

DATED : **Dec. 14, 2010** **DRAFT**

INVENTOR(S) : El Zur 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 1587 days.

Delete the phrase "by 1587 days" and insert – by 1692 days--

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APR 11 2011
OFFICE OF PETITIONS

MCCARTER & ENGLISH, LLP
BOSTON
265 Franklin Street
Boston MA 02110

In re Application of	:	
Morgan, et al.	:	
Application No. 11/015,458	:	ON APPLICATION FOR
Filed: December 17, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 117726-15605	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF UNDER 37 C.F.R. § 1.705(b), filed March 4, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred sixty-five (565) days, not one hundred sixty-three (163) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

---

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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MAILED
DEC 20 2010
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In re Application of :
MacInnis et al. :
Application No. 11/015,555 : ON APPLICATION FOR
Filed: December 17, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 13301US02 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b)" filed December 2, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand four hundred eighty-two (1482) days, not one thousand fifty-eight (1058) 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 after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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
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PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/015,569	Confirmation Number	3943	Filing Date	2004-12-18
Attorney Docket Number (optional)	594-1002-200-US	Art Unit	1616	Examiner	Chui, Mei Ping
First Named Inventor	John Patrick McCook				
Title of Invention	Sunless tanning products and processes				

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
John	Patrick	McCook	

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	/LCP/	Date (YYYY-MM-DD)	2011-12-16
Name	Louis C Paul	Registration Number	53442

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
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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

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

In re Application of
John Patrick McCook

Application No. 11015569

Filed: December 18,2004

Attorney Docket No. 594-1002-200-US

: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 16-DEC-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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
390 LYTTON AVENUE
PALO ALTO, CA 94301-143

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Martin, Anthony G.	:	DECISION ON PETITION
Application No. 11/015,583	:	TO WITHDRAW
Filed: December 17, 2004	:	FROM RECORD
Attorney Docket No. 4001-0013	:	

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 4, 2011.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 69849 was revoked by the assignee of the patent application on February 6, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: DAVIDSON BERQUIST JACKSON & GOWDEY, LLP
ATTN: CLARIA/DR. BRIAN SIRITZKY, ESQ.
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVIDSON BERQUIST JACKSON & GOWDEY, LLP
ATTN: CLARIA/DR. BRIAN SIRITZKY, ESQ.
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Martin, Anthony G.	:	
Application No. 11/015,583	:	DECISION GRANTING PETITION
Filed: December 17, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4001-0013	:	

This is a decision on the petition, filed February 8, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 19, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was rescinded on October 13, 2005. The instant application was published on June 22, 2006.

This application is being forwarded to Technology Center Art Unit 2162 for examination in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/015,741	12/20/2004	Diane Tate	8688.039.US0000	4297

74217 7590 09/19/2011
NOVAK, DRUCE + QUIGG L.L.P. - PERGO
300 New Jersey Ave, NW
Fifth Floor
Washington, DC 20001

EXAMINER
PLUMMER, ELIZABETH A

ART UNIT	PAPER NUMBER
3635	

MAIL DATE	DELIVERY MODE
09/19/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 19 2011

NOVAK, DRUCE + QUIGG L.L.P. - PERGO
300 New Jersey Ave, NW
Fifth Floor
Washington DC 20001

In re Application of	:	DECISION ON PETITION
TATE, Diane et al	:	TO VACATE THE NOTICE OF
Application Number 11/015,741	:	NON-COMPLIANT BRIEF
Filed: December 20, 2004	:	UNDER 37 CFR 1.181
For: MOLDING AND FLOORING MATERIAL	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed on November 24, 2009 to vacate the Notice of Non-compliant Brief dated October 27, 2009.

The petition is **DISMISSED as Moot.**

Applicant appealed the Final rejection of February 26, 2008 in an appeal brief filed June 29, 2009. In the notice of defective appeal brief mailed October 27, 2009 the examiner held that the brief was defective. Along with the instant petition on November 24, 2009, the applicant filed a supplemental appeal brief. An examiner's answer was mailed on March 15, 2010. The application has been forward to the Board of Appeals and Interferences for consideration.

The supplemental appeal brief is compliant and fulfills the requirements of 37 CFR 41.37. Therefore, the request to vacate the Notice of Non-compliant Brief is moot.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Eileen Lillis at 571-272-3628.

Katherine Matecki

Katherine Matecki, Director
Technology Center 3600
571-272-5250

km/edl: 7/9/11

km

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Lee, et al.	:	
Application No. 11/015,743	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. T3716-9205US01	:	

This is a decision on the petition under the unintentional delay standard of 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply to a restriction requirement, mailed October 31, 2008, which set a shortened statutory period for reply of one month or thirty days, whichever was longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and no timely reply was filed. Accordingly, the application became abandoned on December 1, 2008. A Notice of Abandonment was mailed on June 9, 2009.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

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

After the mailing of this decision, the file will be returned to Technology Center AU 1612 for consideration of the election filed on November 23, 2010.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED

AUG 30 2011

OFFICE OF PETITIONS

In re Application of :
Henry J. Lee et al :
Application No. 11/015,743 : DECISION ON REQUEST
Filed: December 20, 2004 :
Attorney Docket No. 220602-1030 :

This is a decision on the request filed August 24, 2011, which is being treated as a Request For Refund and to charge the petition fee to an account.

The request is **DISMISSED**.

Applicant files the above request and states that "On November 22, 2010, the undersigned filed a Petition to Revive and Response to Restriction in this matter. A Government Fee of $810.00 was paid by Visa Credit Card number .... 12006. The fee should have been charged to our client's Deposit Account, (Florida A&M University) number 502945. Please credit the $810.00 to the above referenced Visa account, and charge the $810.00 to Deposit Account number 502945."

The request is dismissed because, **Christopher B. Linder, attorney of record and authorized user paid the fee by credit card** when e-filing the petition under 37 CFR 1.137(b), on November 23, 2010. Applicant states that the petition fee should have been paid by the client's Deposit Account, (Florida A&M University) number 502945. However, the Office will not refund a required fee that has been properly paid by an authorizer user of the credit card to have the fee afterwards charged to an account number. The petition fee paid ($810.00) on November 23, 2010, was not paid by mistake at the time of payment using the credit card account. Therefore, the request is dismissed. Applicant is encouraged to note 37 CFR 1.26.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-31-10

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/015882 Patent No.: 7740481

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

Cris L Rodriguez AU3732

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MAR 07 2011

OFFICE OF PETITIONS

JONES & SMITH , LLP
2777 ALLEN PARKWAY
SUITE 1000
HOUSTON TX 77019

In re Application
Qi Qu et al.
Application No. 11/015,928
Filed: December 17, 2004
Attorney Docket No. **020569-08400**
(BJ P204-1399-US)

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed January 28, 2011. Applicants request that the determination of patent term adjustment be corrected from 1085 days to 1114 days.

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

On November 8, 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 1085 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 29 days of PTA for the filing of a response to the Restriction Requirement mailed June 21, 2007.

A review of the record reveals that on July 18, 2007 Applicants filed a response to the Restriction Requirement mailed June 21, 2007. Thereafter, a Notice of Non-Compliant Amendment was mailed July 24, 2007 to which Applicants filed a response on August 16, 2007. Applicants argue that the reduction in the amount of 29 as determined by the office is in error and that there should be no reduction for the filing of the response.

Applicant's argument has been considered but is not 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:

---

[1] PALM records indicate that the Issue Fee was also received on January 28, 2011.

(7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

It is undisputed that a reply was filed on July 18, 2007 however, that reply had an omission and the omission was corrected on August 16, 2007, twenty-nine (29) days after the filing of the initial response on July 18, 2007. Therefore the reduction is proper.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 525 days.

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

In view thereof, the patent term adjustment at the time of mailing of the notice of allowance remains 1085 days.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to 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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PAMELA R. CROCKER
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

MAILED

FEB 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Kenneth A. Parulski	:	
Application No. 11/016,172	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 80722B/PRC	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, May 7, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper After-Final Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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

Additionally, petitioner's deposit account has been charged the required petition fee of $1,620.00 as authorized January 11, 2011.

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

This matter is being referred to Technology Center AU 3687 for processing of the After-Final Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 9/20/10

TO SPE OF : ART UNIT 2441

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/016259 Patent No.: 7502821 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.

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

Comments: _____

/Nicholas Taylor/ 10/6/2010

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P.O. Box 1450
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BIONUMERIK PHARMACEUTICALS, INC.
Suite 1250
8122 Datapoint
San Antonio TX 78229

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JAN 3 1 2011

OFFICE OF PETITIONS

In re Patent No. 7,053,240	:	
Issue Date: May 30, 2006	:	
Application No. 11/016,441	:	NOTICE
Filed: December 17, 2004	:	
Attorney Docket No. X-0239	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 1, 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

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HOFFMAN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED
AUG 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,588,759	:	DECISION ON REQUEST
Peele et al.	:	FOR
Issue Date: 09/15/2009	:	RECONSIDERATION OF
Application No. 11/016,509	:	PATENT TERM ADJUSTMENT
Filed: 12/17/2004	:	
Atty Docket No.	:	
1370-8	:	

This is a decision on the petition filed on May 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirteen (913) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of four hundred eighty-six (486) days.

Patentees assert that the "B" delay period is 638 days, rather than 211 days as calculated by the Office. Patentees base this assertion on the period starting on the day after the date three years after the date the application was filed, and ending on the date the patent issued.

However, as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 18, 2007, and ends on July 15, 2008, the day before the RCE was filed, and is 211 days. *See* 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, no change will be made to the patent term adjustment of 486 (430 days Office delay + 211 days three years delay – 155 days of applicant delay) days indicated in the Decision on Request for Recalculation of Patent Term Adjustment in View of *Wyeth* and Notice of Intent to Issue Certificate of Correction, mailed on April 21, 2010.

No fee is due for the subject request for reconsideration of the Decision on Request for Recalculation. The $200.00 fee will be credited to counsel's deposit account.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

MAILED
NOV 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Douglas Raymond, et al.	:	
Application No.: 11/016,549	:	ON PETITION
Filed: December 17, 2004	:	
Atty Docket No.: 101896-654 (DEP5180USNP2)	:	

This is a decision on the petition, filed November 4, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 27, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3732 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 21, 2009

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/016578 /7527771

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: _____

_____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/016,578	17 December 2004	CAI ET AL.	NANO/0007

EXAMINER
STEVEN BOS

ART UNIT	PAPER
1736	20110714

DATE MAILED:

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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

Commissioner for Patents

/Stanley Silverman/
Supervisory Patent Examiner, Art Unit 1736

Steven Bos
Primary Examiner
Art Unit: 1736

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.
11/016,685	12/20/2004	Derek L. Davis	042390.P3292R	4226

45209 7590 07/13/2011
MISSION/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER
HENEGHAN, MATTHEW E

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
07/13/2011	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAKATO SAITO
2201-1-417, Omae
Tsumagoi-mura,
Gumma 377-1612
Japan

In re Reissue Patent of:
Derek L. Davis
Patent No. RE40,694
Filed: December 20, 2004
For: **Apparatus and method for re-encrypting data without unsecured exposure of its non-encrypted format**

DECISION ON PETITION UNDER 37 CFR 1.181(a)(3) TO INVOKE SUPERVISORY AUTHORITY OF THE DIRECTOR

This is a decision on the petition under 37 CFR 1.181(a)(3) filed on May 12, 2011, asking to allow the petitioner to obtain the invention in the above-identified patent.

The petition is **DISMISSED**.

Relevant File Record History

The petitioner has filed a petition under 37 CFR 1.181(a)(3) filed on May 12, 2011, asking to obtain the invention in Patent No. RE40,694 (hereafter referred to as '694 patent).

The '694 patent corresponds to application serial number 11/016685 filed 12/20/2004, which is a continuation of 10/974956, filed 10/28/2004, now abandoned.

10/974956 is a reissue of 08633581, filed 04/17/1996, now U.S. Patent 5'805'706 (hereafter referred to as '706 patent).

The '706 patent was involved in interference number 105229, suggested by the petitioner. The petitioner was named the senior party in the interference.

On March 1, 2005, the Board of Patent Appeals and Interferences (BPAI) entered a judgment against the senior party (the petitioner).

REVIEW OF FACTS

The petitioner is asking to obtain the invention in the '694 patent. Seasonable presentation requires a good and sufficient reason as to why the petitioner is entitled to the patent. The only reason provided by the petitioner appears to be based on the fact that the petitioner was named the senior party in interference number 105,229. This is not a sufficient reason, as the interference did not involve the '694 patent, albeit one of the involved applications is the parent application of the '694 patent.

If the petitioner believes that the patent '694 interferes with any of his inventions, the petitioner may file a Suggestion of Interference under 37 CFR 41.202. See MPEP section 2304, particularly section 2304.02(a), or petitioner's earlier filing of a Suggestion of Interference associated with interference number 105229. It is noteworthy that the judgment in said interference was against the petitioner.

Any further petition on this decision must be filed within TWO MONTHS of the mail date of this decision.

DECISION

For the above-stated reasons, the petition is **dismissed**.

Petitioner is given a single opportunity to perfect the petition. Any further petition on this decision must be filed within TWO MONTHS of the mail date of this decision.

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612. A second point of Contact is Kim Huynh at (571)-272-4147.

Tod R Swann, WQAS 2430
Technology Center 2400
Networking, Multiplex, Cable and Information Security

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.
11/016,685	12/20/2004	Derek L. Davis	042390.P3292R	4226

45209 7590 12/07/2011
MISSION/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER
HENEGHAN, MATTHEW E

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
12/07/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAKATO SAITO
2201-1-417, Omae
Tsumagoi-mura,
Gumma 377-1612
Japan

In re Reissue Patent of:
Derek L. Davis
Patent No. RE40,694
Filed: December 20, 2004
For: **Apparatus and method for re-encrypting data without unsecured exposure of its non-encrypted format**

DECISION ON PETITION UNDER 37 CFR 1.181(a)(3) TO INVOKE SUPERVISORY AUTHORITY OF THE DIRECTOR

This is a decision on the renewed petition under 37 CFR 1.181(a)(3) filed on September 7 and October 6, 2011, asking to allow the petitioner to obtain the invention in the above-identified patent. The first petition filed on May 12, 2011 was dismissed on July 13, 2011.

The petition is **Denied**.

Relevant File Record History

The petitioner has filed a petition under 37 CFR 1.181(a)(3) filed on, asking to obtain the invention in Patent No. RE40,694 (hereafter referred to as '694 patent).

The '694 patent corresponds to application serial number 11/016685 filed 12/20/2004, which is a continuation of 10/974956, filed 10/28/2004, now abandoned.

10/974956 is a reissue of 08633581, filed 04/17/1996, now U.S. Patent 5'805'706 (hereafter referred to as '706 patent).

The '706 patent was involved in interference number 105229, suggested by the petitioner. The petitioner was named the senior party in the interference.

On March 1, 2005, the Board of Patent Appeals and Interferences (BPAI) entered a judgment against the senior party (the petitioner).

REVIEW OF FACTS

The petitioner is again asking to obtain the invention in the '694 patent. As the petitioner lost the interference on March 1, 2005 and as this petition and the previous petition was filed 6 years from the decision, petitioner has failed to meet either the period for response to that decision for reconsideration or the timeliness requirements of petitioning any petitionable issues in the decision. Accordingly, this matter is considered closed and finally determined.

DECISION

For the above-stated reasons, the petition is **denied**.

Tod R Swann, WQAS 2430
Technology Center 2400
Networking, Multiplex, Cable and Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/18/11

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 11016797 Patent No.: **7689814**

CofC mailroom date: 03/09/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Eddie P. Chan/ Supervisory Patent Examiner, Art Unit 2183

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

MAILED
JUL 29 2011
OFFICE OF PETITIONS

CHRISTOPHER C WINSLADE
McANDREWS HELD MALLOY LTD
34TH FLOOR
500 WEST MADISON STREET
CHICAGO IL 60661

In re Application of	:	
THANGARAJ et al.	:	
Application No. 11/017,000	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. 15929US01	:	

This is a decision on the petitions filed May 2, 2011, under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Xuemen Chen, and under 37 CFR §§ 1.78(a)(3), to accept an unintentionally delayed claim under 37 CFR § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

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

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

As to the inventorship change 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 request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

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

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

The petition does not comply with items (3) and (5). Petitioner has not provided an oath or declaration by the actual inventor or inventors as required by § 1.63. Petitioner has not provided the written consent of the assignee, Broadcom Corporation. While, the petition states that these items are included, the declaration presented is not in accordance with § 1.63 and the assent of the assignee is missing.

In regards to item (4), the rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition under 37 CFR 1.48(a) to correct the inventorship. In this instance, petitioner's Deposit Account No. 13-0017 has been charged $130.00 as authorized in the petition.

As to the benefit claim under 37 CFR § 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1). In reviewing the parent application to which petitioner is seeking a claim for priority, application serial number 10/259,032 does not share an inventor in common with application serial number 11/017,000. *See* MPEP 201.11 IV. Same inventor or inventors.

The rule at 37 CFR § 1.78(a)(3) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop 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.**

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

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

HONEYWELL/FOGG
PATENT SERVICES
101 COLUMBIA ROAD
P.O BOX 2245
MORRISTOWN, NJ 07962-2245

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Application of
Walter L. Heimerdinger, et al.
Application No. 11/017,382
Filed: December 20, 2004
Attorney Docket No. H0006981-5708 / 400.1036U

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 20, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 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 reply, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2435 for appropriate action by the Examiner in the normal course of business on the reply received March 8, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,671,212 B2
Ser. No. : 11/017,505
Inventor(s) : Taveras et al.
Issued : Mar. 2, 2010
Title : ISOTHIAZOLE DIOXIDES AS CXC-AND CC-CHEMOKINE RECEPTOR LIGANDS
Docket No. : OC06142US01
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LeMOINE PATENT SERVICES, PLLC
C/O CPA GLOBAL
P. O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/24/2010

Applicant	: Xintian E. Lin	: DECISION ON REQUEST FOR
Patent Number	: 7653035	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/017,517	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1409** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,203,955	2007-04-10	11/017,927	2004-12-22	

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	/Nathaniel D. McQueen/	Date (YYYY-MM-DD)	2011-06-16
Name	Nathaniel D. McQueen	Registration Number	53308

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. 7203955
Issue Date: April 10,2007
Application No. 11017927
Filed: December 22,2004
Attorney Docket No. 1999-34U

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 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 June 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

Paper No.: _____

DATE : 02/17/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11018019 Patent No.: 7820675

CofC mailroom date: 02/03/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
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: the last correction fails to indicate the proper lines in Col. 195 it should be lines 49-50

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

1624

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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,182,757 :
Issue Date: February 27, 2007 :
Application No. 11/018,394 : NOTICE
Filed: December 22, 2004 :
Attorney Docket No. 049400-5033

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date :October 6, 2011

Patent No. :7794747
Ser. No. :11018574
Inventor(s) :Carsten Mundus, et al.
Issued :September 14, 2010
Title :METHOD OF PRODUCING A CATIONIC LIPOSOMAL PREPARATION
:COMPRISING A LIPOPHILIC COMPOUND

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481)*. This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1. 17(i) (currently $130);
- **B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

	Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer) Support 1-866-217-9197 571-272-4100

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at 571-272-9005.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

Sally P. Teng, Milbank, Tweed,
Hadley & McCloy LLP
1850 K. Street N.W. Suite 1100
Washington, DC 20006

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JAN 27 2012

OFFICE OF PETITIONS

MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON DC 20006

In re Patent No. 7,794,747	:	
Issue Date: September 14, 2010	:	
Application No. 11/018,574	:	DECISION ON PETITION
Filed: December 22, 2004	:	
Attorney Docket No. 40695.00500	:	

This is a decision on the Request For Correction Of Assignee Names Under 37 CFR 3/81(B) And For Certificate Of Correction, filed October 24, 2011, to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Medigene Oncology GmbH"

to:

--MediGene AG--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,794,747.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

OPAP
JAN 17 2012
PATENT & TRADEMARK OFFICE

DOCKET NO.: 4817

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE MATTER OF THE PATENT

OF: Alexei VICHNIAKOV

PATENT NO.: 7,794,851

ISSUE DATE: September 14, 2010

FOR: Fiber-Reinforced Metallic Composite Material and Method

Certificate
JAN 19 2012
of Correction

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

January 13, 2012

REQUEST FOR THE ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 35 USC 254 AND CERTIFICATE OF MAILING

Honorable Commissioner:

1) The above identified Patent contains printing errors by the USPTO. Please correct the errors as shown on the enclosed Form PTO-1050. For an explanation of the requested changes, please see the Transmittal of Supplemental Declaration filed on August 3, 2010; and our Response dated May 3, 2010 at page 2 line 16.

2) Issuance of a Certificate of Correction as soon as possible will be much appreciated.

Respectfully submitted,

By

Walter F. Fasse
Patent Attorney
Reg. No.: 36132
Tel. No.: 207-862-4671
Fax. No.: 207-862-4681
P.O. Box 726
Hampden, Maine 04444-0726

WFF:ks/4817
Enclosures:
postcard
Form PTO-1050 (2x)

CERTIFICATE OF MAILING:
I hereby certify that this correspondence with all indicated enclosures is being deposited with the US Postal Service with sufficient postage as first-class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Karin Smith - January 13, 2012

Name: Karin Smith - Date: January 13, 2012

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,794,851

APPLICATION NO.: 11/018,583

ISSUE DATE : September 14, 2010

INVENTOR(S) : Alexei VICHNIAKOV

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:

Title page,
Item [75], Inventor, after "Vichniakov", replace "Buzbehude" by --Buxtehude--;

Column 6,
Line 32, after "aluminum oxide", replace "(Al_2O_2)" by --(Al_2O_3)--;
after "iron oxide", replace "(Fe_2O_2," by --(Fe_2O_3,--.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
Hampden, Maine 04444-0726 U.S.A.

Form PTO 1050 (REV.3-82)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,794,851

APPLICATION NO.: 11/018,583

ISSUE DATE : September 14, 2010

INVENTOR(S) : Alexei VICHNIAKOV

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:

Title page,
Item [75], Inventor, after "Vichniakov", replace "Buzbehude" by --Buxtehude--;

Column 6,
Line 32, after "aluminum oxide", replace "(Al_2O_2)" by --(Al_2O_3)--;
after "iron oxide", replace "(Fe_2O_2," by --(Fe_2O_3,--.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
Hampden, Maine 04444-0726 U.S.A.

Form PTO 1050 (REV.3-82)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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 :
Ming Xu et al. :
Patent No. 7,071,660 : NOTICE
Application No. 11/018,920 :
Filed: December 22, 2004 :
Attorney Docket No. **01640445PA**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Waksal	:	
Application No. 11/018,950	:	DECISION ON PETITION
Filed: December 20, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. X-18507E	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed April 29, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment and ADS.

The petition is **DISMISSED AS MOOT.**

While a reference to the prior-filed nonprovisional applications 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 applications 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 the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the first filing receipt.

In view of the above, the $1,410.00 surcharge submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

---

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1643 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED
NOV 24 2010
OFFICE OF PETITIONS

In re Patent No. 7,501,131 :
Issued: 03/10/2009 :
Application No. 11/019,005 : NOTICE
Filed: 12/21/2004 :
Attorney Docket No. 28335/40731 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 15, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Kasravi	:	
Application No. 11/019,144	:	DECISION ON PETITION
Filed: December 21, 2004	:	
Attorney Docket No. 200901662-1	:	

This is a decision on the petition under 37 CFR 1.182, filed, September 14, 2006, to change the name of inventor "Kasra Kasravi" to --Kas Kasravi --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3215. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3622 for further processing in the normal course of business.

Charlema Grant
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
11/019,144	12/21/2004	3622	3150	200901662-1	51	6

CONFIRMATION NO. 1675

CORRECTED FILING RECEIPT

OC000000048055582

22879
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

Date Mailed: 06/07/2011

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)

Kas Kasravi, West Bloomfield, MI;

Power of Attorney: The patent practitioners associated with Customer Number 022879

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: 03/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/019,144**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for predictive product requirements analysis

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Kuure et al.	:	
Application No.: 11/019225	:	DECISION ON
Filing or 371(c) Date: 12/23/2004	:	PETITION
Attorney Docket Number: 042933/373954	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 23, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is March 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 a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114 (the Amendment filed April 8, 2009); (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.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available. The extension of time fee has been refunded to applicant's deposit account.

This application is being referred to Technology Center AU 2443 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.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 29, 2011

TO SPE OF : ART UNIT 1619

SUBJECT : Request for Certificate of Correction for Appl. No.: 11019307 Patent No.: 7871601

CofC mailroom date: Mar. 21, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1814 _____

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: _____

David Blanchard

SPE Art Unit 1619

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

MAILED
MAR 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,482,555	:	
Issue Date: January 27, 2009	:	
Application No. 11/019,389	:	DECISION ON PETITION
Filed: December 23, 2004	:	
Attorney Docket No. 025789-00017	:	

This is a decision on the petition under 37 CFR 1.182, filed April 8, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642. Inquiries regarding the issuance of the duplicate Letters Patent may be directed to Niomi P. Farmer in the Office of Data Management at (703) 756-1556.

A copy of this decision is being faxed to Office of Data Management for issuance of duplicate Letters Patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Niomi P. Farmer, Randolph Square, 9th Floor, Room D30-B (Fax No. (571) 270-9937)

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Patent No. **7,306,117**	:	
Issue Date: December 11, 2007	:	
Application No. 11/019,488	:	NOTICE UNDER 37 CFR 1.28(c)
Filed: December 22, 2007	:	
Attorney Docket No. **86500CON(308092)**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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DEC 06 2010

OFFICE OF PETITIONS

In re Application
Nigel Richardson et al.
Application No. 11/019,499
Filed: December 21, 2004
Attorney Docket No. 088245-1008

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b) filed November 22, 2010. Applicant requests that the determination of patent term adjustment be corrected from 740 to 941 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 26, 2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No. 11/019499 patent No.:7868871

C of C mailroom date:--04-22-11

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: _____

Amr Awad

Digitally signed by Amr Awad
DN: cn=Amr Awad, c=US, o=USPTO, ou=AU 2629
Date: 2011.05.04 11:10:30 -04'00'

SPE _____ **Art Unit**

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NOV 18 2010

OFFICE OF PETITIONS

DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303-2248

In re Application of :
Mark Douglas McDonald, et al :
Application No.: 11/019,660 : ON PETITION
Filed: December 20, 2004 :
Attorney Docket No.: 364930-991100 :

This is a decision in response to the petition filed September 24, 2010, to withdraw the holding of abandonment under the provisions of 37 CFR 1.181(a).

The petition is **GRANTED**.

A review of the record discloses that a final Office action was mailed on March 24, 2010, setting a shortened statutory period for reply of three (3) months. Accordingly, a response was due on or before June 24, 2010; however, the maximum statutory period for reply ended on September 24, 2010. On September 17, 2010, a Notice of Abandonment was mailed.

In response, on September 24, 2010, the present petition was filed wherein petitioner requests that the abandonment be withdrawn. Petitioner explains that the Notice of Abandonment was mailed prematurely, since extensions of time were available through September 24, 2010. A Notice of Appeal and fee, as well as an appropriate 3-month extension of time accompanies the present petition.

The written record confirms that petitioner is correct. Since extensions of time were available through September 24, 2010, the Notice of Abandonment mailed September 17, 2010 was premature. In view of the appropriate extension of time filed September 24, 2010, the accompanying Notice of Appeal is considered timely.

The Notice of Abandonment mailed September 17, 2010 is hereby vacated.

Petitioner is reminded that 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 filing date of Notice of Appeal on September 24, 2010.

The application is being referred to the Technology Center AU 2876 technical support staff for: (1) withdrawing the holding of abandonment, and (2) to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303-2248

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JUL 06 2011

OFFICE OF PETITIONS

In re Application of :
McDonald et al. :
Application No. 11/019,660 : DECISION ON PETITION
Filed: December 20, 2004 :
Attorney Docket No. 364930-991100 :

This is a decision on the petition filed June 7, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the final Office action of March 24, 2010, which set a three (3) month shortened statutory period for reply.

The petitioner asserts that the Notice of Abandonment dated April 29, 2011 is improper and requests that the abandonment be withdrawn. The petitioner further states that on September 24, 2010, a three (3) month extension of time including a Notice of Appeal was filed and on April 25, 2011 a five (5) month extension of time including a Request for Continued Examination (RCE) and a submission under 37 CFR 1.114 was filed.

A review of the file record indicates that on March 24, 2010, the Office mailed a final Office action, which set a shortened statutory period for reply of three (3) months on September 17, 2010; the Office mailed a premature Notice of Abandonment. In response, on September 24, 2010, petitioner filed a three month extension of time including a Notice of Appeal and a petition under 37 CFR 1.181 to withdraw the abandonment. On November 18, 2010, the Office granted the withdrawal of abandonment. On April 25, 2011, petitioner filed the petition herein, a five (5) month extension of time including a Request for Continued Examination (RCE) and a submission under 37 CFR 1.114 in response to the Notice of Appeal submitted on September 24, 2010.

In view of the above, the reply filed on April 25, 2011 in response to the Notice of Appeal is timely. Therefore, the Notice of Abandonment mailed April 29, 2011 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059.

This application is being referred to Technology Center AU 2876 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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COGNEX CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
1 VISION DRIVE
NATICK, MA 01760-2077

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AUG 24 2010

OFFICE OF PETITIONS

In re Application of
Laurens Nunnink
Application No. 11/019,763
Filed: December 21, 2004
Attorney Docket No. C04-003

ON PETITION

This is a decision on the petition, filed August 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 August 10, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Thomas J. Krumenacher
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

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MAR 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Karsten MAEDER, et *al.*	:	
Application No. 11/019,865	:	DECISION ON PETITION
Filed: December 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 24, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 25, 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The 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) an adequate 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **DARA L. DINNER**
GLAXO SMITH KLINE
709 SWEDELAND ROAD, UW2220
KING OF PRUSSIA, PA 19406

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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P.O. BOX 224
MONROE CT 06468

MAILED

FEB 23 2012

OFFICE OF PETITIONS

In re Application of	:	
Rufino U. Naval et al	:	
Application No. 11/019,932	:	DECISION ON PETITION
Filed: December 21, 2004	:	
Attorney Docket No. 911-012.002-3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned because of the decision by the Board of Patent Appeals and Interference rendered on September 1, 2011 and because the period for seeking court review of the decision has expired and there are no allowed claims.

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 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 3627 for appropriate action by the Examiner in the normal course of business on the reply received December 15, 2011.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Minneapolis MN 55440

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JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,870,221	:
Matveief et al.	: DECISION ON REQUEST FOR
Issue Date: January 11, 2011	: RECONSIDERATION OF
Application No. 11/019,970	: PATENT TERM ADJUSTMENT
Filed: December 20, 2004	:
Attorney Docket No. 07844-0670001	:
Title: MULTIPLE BINDINGS IN WEB SERVICE DATA CONNECTION	:

This is a decision on the petition filed on March 11, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-three (1,193) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

On January 11, 2011, the application matured into U.S. Patent No. 7,870,221, with a revised patent term adjustment of 1,066 days. On March 11, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,193. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the

"B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on September 7, 2010, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 127 day period from September 7, 2010 (the mailing date of the Notice of Allowance) until January 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 127 days and be increased from 402 to 529 days. Patentee concludes that the correct patent term adjustment is 1,193 days (the sum of 783 days of "A delay" and 529 days of "B delay" minus 90 days of overlap).

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 37 CFR 1.702(b) as 402 days based on the application having been filed under 35 U.S.C. 111(a) on December 20, 2004 and the patent not having issued as of the day after the three year date, December 21, 2007, and a request for continued examination under 132(b) having been filed on January 26, 2009. In other words, the 127-day period from the date of mailing of the notice of allowance to the date of issuance of the patent was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay", pursuant to 37 CFR 1.702(b)[1], is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[2]. So, with respect to calculating the "B

---

[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);
(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.

[2] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

delay" where applicant has filed a request for continued examination, the period of adjustment under 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the 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. See 37 CFR 1.703(b)(1).

Further, counting the period of time excluded from the three-year period in 1.703(b)(1) 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 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 filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b)' and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the

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(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.

excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's premise that the issuance of a notice of allowance under 35 U.S.C. 151 terminates the examination process is incorrect. By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See

BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination at the request of the applicant does not terminate with the mailing of the notice of allowance. All the time the application is pending from the filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Absent the filing of the request for continued examination, the prosecution of the application would have taken a different direction, which may or may not have resulted in the patent issuing within three years.

In view thereof, it is concluded that the patent term adjustment of 1,193 days indicated on the patent is correct.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303-2248

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of
Anurag Goel, et al.
Application No. 11/019,978
Filed: December 20, 2004
Attorney Docket No. 364930-991110

DECISION ON PETITION

This is a decision on the petition, filed March 9, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of May 28, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 29, 2010.

Petitioner states that a timely reply was mailed via EFS Web on November 23, 2010, which included the following papers: a Notice of Appeal with a three month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears an EFS Web receipt date of November 23, 2010, which rendered the reply timely. The original reply is in the file.

The two month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 28, 2010 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2876 for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/020,020	12/21/2004	Richard T. Clark	3489.1000-000	9951

21005 7590 03/08/2011
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER
JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
3677	

MAIL DATE	DELIVERY MODE
03/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR - 8 2011

In re Patent No. CLARK, RICHARD T. Issue Date: May 1, 2007 Appl No.: 11/020,020 Filed: December 21, 2004 For: Correction of Inventorship in Patent	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed August 11, 2008 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.

Victor Batson
Supervisory Patent Examiner
Art Unit 3677
Technology Center 3600

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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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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DATE: March 8, 2011
TO: Certificates of Correction Branch
FROM: Victor Batson
SPE, Art Unit 3677
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,210,199 as specified on the attached Certificate.

Victor Batson, SPE
Art Unit 3677

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,210,199
Patented: May 1, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Richard T. Clark
Kirkwood, Missouri

Patrick M. Harris
Downers Grove, Illinois

Victor Batson
Supervisory Patent Examiner
Art Unit 3677

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110303

DATE : March 7, 2011

TO SPE OF : ART UNIT 2817

SN 11/029,023

SUBJECT : Request for Certificate of Correction on Patent No.: 7, 274, 264

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Robert Pascal **Art Unit** 2817

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: 040373	Patent Number: 7,660,598
Filing Date (or 371(b) or (f) Date): 12-21-2004	Issue Date: 02-09-2010
First Named Inventor: KENNETH CHARLES BARNETT	
Title: TRANSMIT POWER REDUCTION FOR A WIRELESS DEVICE WITH MULTIPLE TRANSMIT SIGNAL PATHS	

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 /Ramin Mobarhan, Reg# 50,182/	Date 07-29-2010
Name (Print/Typed) Ramin Mobarhan	Registration Number 50182

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 09/13/2010

Applicant	: Kenneth Charles Barnett	: DECISION ON REQUEST FOR
Patent Number	: 7660598	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/020,054	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** 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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BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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APR 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,814,574	:	
Issue Date: October 19, 2010	:	
Application No. 11/020,164	:	DECISION ON PETITION
Filed: December 24, 2004	:	
Attorney Docket No. 005127.00370	:	

This is a decision on the petition filed February 17, 2011, under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The petition fee of $400 under the provisions of 37 CFR 1.182 has been paid.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735.

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person at (703) 756-1555 in the Office of Data Management.

A copy of this decision is being sent to the Office of Data Management for issuance of a duplicate Letters Patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell, Randolph Square, 9th Floor, Room D33 (Fax No. (571) 270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZAGORIN O'BRIEN GRAHAM LLP
7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350
AUSTIN TX 78731

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DEC 05 2011
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In re Patent No. 7,293,416	:	
Issue Date: November 13, 2007	:	
Application No. 11/020,355	:	ON PETITION
Filed: December 23, 2004	:	
Attorney Docket No. 089-0017	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 21, 2011 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 14, 2011, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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GARLICK, HARRISON & MARKISON (ALU)
P.O. BOX 160727
AUSTIN TX 78716-0727

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:
Kan et al.	:
Application No. 11/020,373	: DECISION GRANTING PETITION
Filed: December 22, 2004	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. ALI39287	: 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 March 15, 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 and Application Data Sheet (ADS).

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 December 22, 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 and an ADS, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii). Additionally, the intermediate nonprovisional application, Application No. 09/966,155, was filed within twelve months of provisional Application No. 60/308,373, which was filed on July 27, 2001, for which priority is claimed.

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 the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2614 for appropriate action on the amendment submitted March 15, 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 application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/020,373	12/22/2004	2614	1130	AL139287	20	2

CONFIRMATION NO. 7549

CORRECTED FILING RECEIPT

75930
GARLICK, HARRISON & MARKISON (ALU)
P.O. BOX 160727
AUSTIN, TX 78716-0727

OC000000047222495

Date Mailed: 04/19/2011

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)

Chao Kan, Frisco, TX;
Michael S. Wengrovitz, Concord, MA;

Power of Attorney: The patent practitioners associated with Customer Number 75930

Domestic Priority data as claimed by applicant

This application is a CIP of 09/966,155 09/28/2001 PAT 6,909,778
which claims benefit of 60/308,373 07/27/2001

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 11/020,373**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus, and associated method, for a CTI-enabled SIP-phone

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).

UNITED STATES 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. 7222465
Issue Date: May 29,2007
Application No. 11020378
Filed: December 22,2004
Attorney Docket No. 25449B

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 12,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 12,2012 . 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)
7222465	2007-05-29	11020378	2004-12-22	D0932-00928/VS-8831

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	/Gerald K. Kita, Reg. No. 24,125/	Date (YYYY-MM-DD)	2012-01-12
Name	Gerald K. Kita	Registration Number	24125

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of :
Teague, et al. :
Application No. 11/020,412 : DECISION
Filed: 22 December, 2004 :
Attorney Docket No. 040754 :

This is a decision on the petition, filed on 24 January, 2011, to revive pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are required here.)

It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition lacks the proper statement of unintentional delay

Application No. 11/020,412

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to a non-final Office action mailed on 13 December, 2007, with reply due absent an extension of time on or before 13 March, 2008.

The application went abandoned after midnight 13 March, 2008.

The Office mailed the Notice of Abandonment on 29 July, 2008.

On 27 August, 2008, Petitioner filed the original petition with fee pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay, a reply in the form of an amendment, however, it appeared that the petition form used by Petitioner—which form was not that provided by the Office—contained no statement of unintentional delay. The petition was dismissed on 1 December, 2008.

On 24 January, 2011, Petitioner filed a petition with fee pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay, a reply in the form of an amendment, however, it appears that despite the extended period of abandonment (three years at this writing) and since dismissal (more than two years) Petitioner provided absolutely no explanation in support of the averment of unintentional delay.

Petitioner's attentions are directed to the guidance of the Commentary at MPEP §711.03(c) (see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

---

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
Teague, et al. :
Application No. 11/020,412 : DECISION
Filed: 22 December, 2004 :
Attorney Docket No. 040754 :

This is a decision on the petition, filed on 18 May, 2011, to revive pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

NOTE:

The record (including the petitions filed on 27 August, 2008, on 24 January, 2011 and on 18 May, 2011) does not necessitate a finding that the delay between midnight 13 March, 2008 (the date of abandonment), and 18 May, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Stanton Braden (Reg. No. 32,556) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to a non-final Office action mailed on 13 December, 2007, with reply due absent an extension of time on or before 13 March, 2008.

The application went abandoned after midnight 13 March, 2008.

The Office mailed the Notice of Abandonment on 29 July, 2008.

On 27 August, 2008, Petitioner filed the original petition with fee pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay, a reply in the form of an amendment, however, it appeared that the petition form used by Petitioner—which form was not that provided by the Office—contained no statement of unintentional delay. The petition was dismissed on 1 December, 2008.

On 24 January, 2011, Petitioner filed a petition with fee pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay, a reply in the form of an amendment, however, it appears that despite the extended period of abandonment (three years at this writing) and since dismissal (more than two years) Petitioner provided absolutely no explanation in support of the averment of unintentional delay. Petitioner's attentions were directed to the guidance of the Commentary at MPEP §711.03(c) (see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c). The petition was dismissed on 10 May, 2011.

On 18 May, 2011, Petitioner re-advanced the a petition pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay, a reply in the form of an amendment, and made a showing as to unintentional delay.

As noted above, the record (including the petitions filed on 27 August, 2008, on 24 January, 2011 and on 18 May, 2011) does not necessitate a finding that the delay between midnight 13 March, 2008 (the date of abandonment), and 18 May, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Stanton Braden (Reg. No. 32,556) when accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[5]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2616 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/11

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 11020708 Patent No.: 7536626

CofC mailroom date: 05/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

2112

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

December 13, 2011

D. Edward Dologorukov
Marshall & Melhorn, LLC
Four SeaGate
8th Floor
Toledo, OH 43604

Patent No.	: 7,303,605 B2
Appl. No.	: 11/020,797
Inventor(s)	: Majid Zia, et al.
Issued	: December 4, 2007
Title	: **SNAP TOGETHER FILTER**
Docket No.	: 1-16855

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A petition to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL & MELHORN, LLC
FOUR SEAGATE - EIGHTH FLOOR
TOLEDO, OH 43604

MAILED
FEB 14 2012
OFFICE OF PETITIONS

In re Patent of Zia et al.	:	
Patent No. 7,303,605	:	
Issue Date: December 4, 2007	:	Letter
Application No. 11/020,797	:	
Filing Date: December 22, 2004	:	
Attorney Docket No. 1-16855	:	

This is a letter in response to the request under 37 CFR 3.81(b) filed January 5, 2012, to accept the correction of the assignee data on the front page of the patent.

The request is **GRANTED**.

Pursuant to 37 CFR 3.81(b), a request to have a patent corrected to add, or change, an assignee's name must:

1. State an assignment to the assignee was recorded before issuance of the patent,
2. Include a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a), and
3. Include the fee set forth in 37 CFR 1.17(i).

Patentees have met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will be informed of the instant decision and the requested certificate of correction will be issued 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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GORE ENTERPRISE HOLDINGS, INC.
551 PAPER MILL ROAD
P. O. BOX 9206
NEWARK, DE 19714-9206

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Edward H. Cully, et al.
Application No.: 11/020,867
Filed: December 22, 2004
Attorney Docket No.: MP/212

ON PETITION

This is a decision in response to the petition, filed August 10, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 10, 2009. A Notice of Abandonment was mailed on February 18, 2010. On August 10, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the response filed August 10, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENBERG TRAURIG (LV)
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas NV 89169

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Smith	:	
Application No. 11/020,868	:	ON PETITION
Filed: December 23, 2004	:	
Attorney Docket No. 087366.000008	:	
For: BIDET DEVICE SELF CLEANING	:	
NOZZLE	:	

This is a decision on the petition under 37 CFR 1.181, filed May 25, 2011, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned as a result of applicant's alleged failure to timely file an Appeal Brief within two (2) months of the Notice of Appeal filed December 15, 2010. A Notice of Abandonment was mailed on May 23, 2011.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a petition for a three month extension of time and an Appeal Brief were timely filed on May 16, 2011. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records show that the required three month extension of time fee of $555.00 and the required Appeal Brief fee of $270.00 were charged on mailroom date May 16, 2011. Per 37 CFR 41.37 and MEP 1205.01, the two month period to file an Appeal Brief, or other appropriate submission, after the filing of a Notice of Appeal, is extendable up to 5 months. Therefore, the three month extension of time and the Appeal Brief were timely filed on May 16, 2011, a Monday.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the May 23, 2011 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to Technology Center A.U. 3751 for consideration of the Appeal Brief, filed on May 16, 2011.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/24/11

TO SPE OF : ART UNIT 2194

SUBJECT : Request for Certificate of Correction for Appl. No.: 11020875 Patent No.: 7818755

CofC mailroom date: 10/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 2194

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

PITNEY BOWES INC.
INTELLECTUAL PROPERTY & TECH. LAW DEPT.
35 WATERVIEW DRIVE
MSC 26-22
SHELTON CT 06484

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Easwaran NAMBUDIRI et al.	:	ON PETITION
Application No. 11/020,877	:	
Filed: December 22, 2004	:	
Atty. Docket No.: F-896		

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 1, 2011 (Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned July 2, 2011. A Notice of Abandonment was mailed November 7, 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 Response to the Office Action mailed April 1, 2011, (2) a petition fee of $1860, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 2625 for consideration of the Response submitted with the instant petition.

Robert DeWitty
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.
11/020,921	12/23/2004	Brian K. Rearick	2005A1	6278

7590 02/09/2011
PPG INDUSTRIES, INC.
Intellectual Property Department
One PPG Place
Pittsburgh, PA 15272

EXAMINER
JOY, DAVID J

ART UNIT	PAPER NUMBER
1785	

MAIL DATE	DELIVERY MODE
02/09/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

February 9, 2011

PPG INDUSTRIES, INC.
Intellectual Property Department
One PPG Place
Pittsburgh PA 15272

In re Application of	:	
Rearick, Brian K. et, el	:	**DECISION ON PETITION**
Application No. 11/020,921	:	
Filed: 12/23/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 2005A1	:	***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) December 23, 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

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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/04/2010

Applicant	: Luke Chang	: DECISION ON REQUEST FOR
Patent Number	: 7668194	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/020,945	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1056** 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

Harrington & Smith,
Attorneys At Law, LLC
4 Research Drive, Suite 202
Shelton CT 06484

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Application of :

Repka :

Application No. 11/021,011 : ON PETITION

Filed: December 22, 2004 :

Attorney Docket No. **879A.0143.U1(US)**

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed August 31, 2011.

The petition is **granted**.

This application was held abandoned April 29, 2011, after the period for seeking judicial review expired after a decision by the Board of Patent Appeals and Interferences was mailed. A Notice of Abandonment was mailed June 1, 2011.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The Request for Continued Examination and amendment, filed August 31, 2011, are noted.

The application file is being forwarded to Technology Center, GAU 2617 further review.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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AUG 02 2010

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Application of	:	
Muller, et al.	:	
Application No. 11/021,071	:	ON REQUEST FOR
Filed: December 22, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 04-1033	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 20, 2010. Applicants believe that they should be accorded an additional PTA of 412 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **five hundred forty-one (541) days** (541 days of PTO delay, reduced by 0 days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 13-2490, 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

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SOFER & HAROUN, L.L.P.
Suite 910
317 Madison Avenue
New York NY 10017

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of :
Ruggieri, et al. :
Application No. 11/021,111 :
Filed: December 23, 2004 :
Attorney Docket No. 884-003u :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2010, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned December 19, 2008 for failure to timely submit a proper reply to the final Office action mailed September 18, 2008. No petition for extension of time for reply was filed. Notice of Abandonment was mailed June 9, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3691 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
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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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,505,055
Issued: March 17, 2009
Application No. 11/021,130
Filed: December 21, 2004
Attorney Docket No. 132751

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REOUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)" filed May 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 750 days to 1112 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by one thousand one hundred twelve (1112) days and is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred twelve (1112)** 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

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[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,505,055 B2

DATED : December 21, 2004

INVENTOR(S) : Greg Neal

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 (750) days

Delete the phrase "by 750 days" and insert – by 1112 days--

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,606,570
Issued: October 20, 2009
Application No. 11/021,277
Filed: December 23, 2004
Atty. Dkt. No.: 15722US02

: DECISION ON PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION

This is a decision on the "REQUEST FOR RECONSIDEARTION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH", filed June 18, 2010. As this request was submitted within one month of the mail date of the decision mailed May 18, 2010, this matter is deemed timely.

The request for reconsideration of the patent term adjustment (PTA) set forth in the decision mailed June 18, 2010 is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Pat. No. 7,606,570 on October 20, 2009. The decision mailed May 18, 2010 indicates that the patent is entitled to an overall adjustment of 1298 days and is subject to a 37 day reduction in connection with the Rule 312 amendment filed August 13, 2009. Patentee argues that the correct reduction in this regard is "36 days, which is the difference between the correct filing and mailing dates stated above, but not exceeding four months."

The overall record has been reviewed and the calculation set forth in the May 18, 2010 decision is vacated to the extent indicated herein.

The patent is entitled to an adjustment of 668 days pursuant to 37 CFR 1.703(a)(1), from February 24, 2006 to July 25, 2008.

The patent is entitled to an adjustment of 667 days pursuant to 37 CFR 1.703(b), from December 24, 2007 to October 20, 2009.

However, the period of adjustment granted under 37 CFR 1.703 shall not exceed the actual number of days the issuance of the patent was delayed. The period of adjustment of 668 days under 37 CFR 1.703(a)(1) overlaps with the period of adjustment of 667 days under 37 CFR 1.703(b) from December 24, 2007 to July 25, 2008, or 215 days. Accordingly, the overlap period of 215 days of adjustment is not included in the overall patent term adjustment accorded the patent. See, 37 CFR 1.703(f).

As to the period of applicant delay of 37 days pursuant to 37 CFR 1.704(c) contested by applicant, this period is correct.

37 CFR 1.704(c) states:

> 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; (ii) Four months.

Herein, a Rule 312 amendment was filed August 13, 2009. A response thereto was mailed September 18, 2009. Accordingly, the period of reduction per 37 CFR 1.704(c)(10)(i) begins August 13, 2009, the date that the Rule 312 amendment was filed, and ends September 18, 2009, the mailing date of the Office notice mailed in response thereto, or 37 days. The period under 37 CFR 1.704(c)(10) is not based on the "difference between the correct filing and mailing dates," but on the actual date that the post-allowance submission was filed and the mail date of a response to the post-allowance submission, or 120 days, whichever is less.

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 1083 days (668 days per § 1.703(a)(1) + 667 per § 1.703(b) – 215 overlapping days per § 1.703(f) – 37 days of applicant delay per § 1.704(c)(10)).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The 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 1083 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,606,570

DATED : **October 20, 2009** **DRAFT**

INVENTOR(S) : Karaoguz, 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 846 days

Delete the phrase "by 846 days" and insert – by 1083 days--

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www.uspto.gov

Raymond E. Stauffer, Esq.
c/o Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
5 Becker Farm Road
Roseland NJ 07068

MAILED
JAN 20 2011
OFFICE OF PETITIONS

In re Application of
Treacy et al.
Application No 11/021,309
Filed: December 23, 2004
Attorney Docket No. 260200-133

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 29, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 30, 2010. A Notice of Abandonment was mailed on November 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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.

It is noted that a Denial of Request for Power of Attorney was mailed on November 9, 2010 in response to the October 1, 2010 request to change the power of attorney and correspondence address which contained the incorrect reel number.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110215

DATE : February 15, 2011

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction on Patent No.: 7,335,744

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Misook Yu/
Supervisory Patent Examiner.Art Unit 1643

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of :
Reich et al. :
Application No. 11/021,541 :
Filed: December 23, 2004 :
Attorney Dkt. No. 129402.00501 :
For: COMPOSITIONS AND METHODS :
FOR COMBINED THERAPY OF DISEASE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)" filed April 26, 2010. Applicants request that the determination of patent term adjustment be corrected from zero (0) days to five hundred eighty-two (582) 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 notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

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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.

On January 27, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The instant application for patent term adjustment was timely filed on April 26, 2010.

Applicants dispute the 365 day reduction for the submission of filing fees on July 14, 2006. Petitioner contends that the filing fees were submitted on July 14, 2005, not July 14, 2006. Thus the reduction of 365 days is incorrect.

Applicants' argument has been considered and has been determined to be persuasive. A review of the record shows that in response to the Notice to File Missing Parts mailed on April 14, 2005 a response including authorization to charge any additional fees was provided on July 14, 2005. As such, the 365 day reduction will be removed.

Applicants' delay prior to the mailing of the Notice of Allowance is 118 (61 + 30 + 27) days. Office delay prior to the mailing of the Notice of Allowance is 387 (386 + 1) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **two hundred sixty-nine (269)** days.

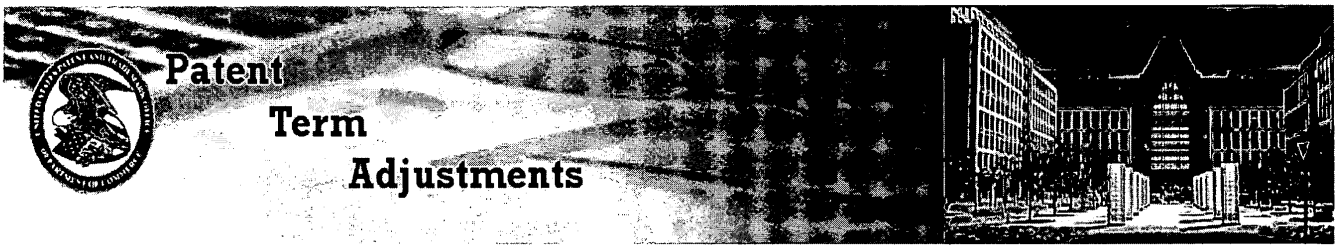
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11021541 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11021541

Application Filing Date	12/23/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	387
A Delays	387	PTO Manual Adjustment	365
B Delays	0	Applicant Delay (APPL)	483
C Delays	0	Total PTA (days)	269

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
96	08/28/2010		P028	Adjustment of PTA Calculation by PTO	365		0
84	01/27/2010		MN/=.	Mail Notice of Allowance			0
83	01/22/2010		IREV	Issue Revision Completed			0
82	01/22/2010		N/=.	Notice of Allowance Data Verification Completed			0
81	01/22/2010		DOCK	Case Docketed to Examiner in GAU			0

80	01/22/2010		DVER	Document Verification			0
79	01/21/2010		EX.A	Examiner's Amendment Communication			0
78	01/21/2010		CNTA	Notice of Allowability			0
77	01/17/2010		FWDX	Date Forwarded to Examiner			0
76	01/15/2010		A.NE	Amendment after Final Rejection			0
75	11/16/2009	11/15/2009	MCTFR	Mail Final Rejection (PTOL - 326)	1		70
74	11/12/2009		CTFR	Final Rejection			0
71	09/10/2009		FWDX	Date Forwarded to Examiner			0
70	07/15/2009		ELC.	Response to Election / Restriction Filed			0
69	06/15/2009		MCTRS	Mail Restriction Requirement			0
68	06/12/2009		CTRS	Requirement for Restriction / Election			0
67	04/08/2009		FWDX	Date Forwarded to Examiner			0
66	03/25/2009	02/26/2009	A...	Response after Non-Final Action		27	64
65	03/25/2009		XT/G	Request for Extension of Time - Granted			0
64	11/26/2008		MCTNF	Mail Non-Final Rejection			0
63	11/24/2008		CTNF	Non-Final Rejection			0
59	11/19/2008		FWDX	Date Forwarded to Examiner			0
57	11/19/2008		FWDX	Date Forwarded to Examiner			0
55	11/19/2008		ABN9	Disposal for a RCE / CPA / R129			0
60	10/31/2008		C614 New	or Additional Drawing Filed			0
58	10/31/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
56	10/31/2008	10/01/2008	RCEX	Request for Continued Examination (RCE)		30	48
54	10/31/2008		XT/G	Request for Extension of Time - Granted			0
53	10/31/2008		BRCE	Workflow - Request for RCE - Begin			0
61	07/08/2008		IDSC	Information Disclosure Statement considered			0
52	07/08/2008		RCAP	Reference capture on IDS			0
51	07/08/2008		M844	Information Disclosure Statement (IDS) Filed			0
50	07/08/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
48	07/01/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
47	06/25/2008		CTFR	Final Rejection			0
43	05/02/2008		FWDX	Date Forwarded to Examiner			0
42	04/28/2008		ELC.	Response to Election / Restriction Filed			0
41	04/04/2008		MCTRS	Mail Restriction Requirement			0
40	04/01/2008		CTRS	Requirement for Restriction / Election			0
39	02/01/2008		FWDX	Date Forwarded to Examiner			0
36	12/31/2007		CRFE	CRF Is Good Technically / Entered into Database			0
38	12/11/2007	10/11/2007	A...	Response after Non-Final Action		61	32

37	12/11/2007		XT/G	Request for Extension of Time - Granted			0
46	08/09/2007		IDSC	Information Disclosure Statement considered			0
35	08/09/2007		RCAP	Reference capture on IDS			0
34	08/09/2007		M844	Information Disclosure Statement (IDS) Filed			0
33	08/09/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
32	07/11/2007		MCTNF	Mail Non-Final Rejection			0
31	07/09/2007		CTNF	Non-Final Rejection			0
28	06/05/2007		FWDX	Date Forwarded to Examiner			0
27	06/04/2007		ELC.	Response to Election / Restriction Filed			0
26	06/04/2007		XT/G	Request for Extension of Time - Granted			0
24	03/16/2007	02/23/2006	MCTRS	Mail Restriction Requirement	386		-1
23	03/14/2007		CTRS	Requirement for Restriction / Election			0
29	03/09/2007		IDSC	Information Disclosure Statement considered			0
25.7	03/09/2007		M844	Information Disclosure Statement (IDS) Filed			0
25	03/09/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
22	11/13/2006		DOCK	Case Docketed to Examiner in GAU			0
21	10/24/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
18	09/13/2006		WROIPE	Application Return from OIPE			0
17	09/13/2006		COMP	Application Is Now Complete			0
16	09/11/2006		ROIPE	Application Return TO OIPE			0
15	09/11/2006		OIPE	Application Dispatched from OIPE			0
14	09/11/2006		COMP	Application Is Now Complete			0
9	09/11/2006		C.AD	Correspondence Address Change			0
13	07/14/2006	07/14/2005	ADDFLFEE	Additional Application Filing Fees		365	8
12	07/14/2006		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
11	07/14/2006		SES	Small Entity Statement (37 CFR 1.27)			0
10	07/14/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
20	06/22/2006		LET.	Miscellaneous Incoming Letter			0
8	04/14/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
6	04/08/2005		L128	Cleared by L&R (LARS)			0
5	01/24/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
4	01/19/2005		SCAN	IFW Scan & PACR Auto Security Review			0
3	01/13/2005		CRFE	CRF Is Good Technically / Entered into Database			0
30	12/23/2004		IDSC	Information Disclosure Statement considered			0

19.7	**12/23/2004**	**M844**	**Information Disclosure Statement (IDS) Filed**	**0**
19	**12/23/2004**	**WIDS**	**Information Disclosure Statement (IDS) Filed**	**0**
2	**12/23/2004**	**CRFL**	**CRF Disk Has Been Received by Preexam / Group / PCT**	**0**
1	**12/23/2004**	**IEXX**	**Initial Exam Team nn**	**0**

Export to: Excel

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

In re Application of	
Rodney W. PIERCE et al.	:
Application No. 11/021,563	:
Filed: December 22, 2004	: NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,401,431	:
Issue Date: July 22, 2008	:
Attorney Docket No. 112563-140316	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **KENDAL M. SHEETS**
CPA GLOBAL
2318 MILL ROAD
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
www.uspto.gov

XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE CA 95124

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of :
Fox :
Application No. 11/021,636 : NOTICE
Filed: December 23, 2004 :
Attorney Docket No. X-1752-1C US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MAILED

SEP 16 2010

OFFICE OF PETITIONS

SQUIRE, SANDERS & DEMPSEY LLP
275 BATTERY STREET, SUITE 2600
SAN FRANCISCO CA 94111-3356

In re Patent No. 7,604,818	: DECISION ON REQUEST
Stephen D. Pacetti	: FOR
Application Number: 11/021,775	: RECONSIDERATION OF
Issue Date: 10/20/2009	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/22/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
050623.00401	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF DISMISSAL OF 4/16/10 REQUEST FOR RECALCULATION IN VIEW OF *WYETH*," filed on May 26, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-three (653) 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 fifty-three (653) days is **GRANTED**.

As to the "B" delay, the period is the period beginning on December 23, 2007, 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). Further, 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 ends on September 9, 2008, the day before the RCE was filed, and is 262 days. See 35 U.S.C. 154(b)(1)(B)(i). Considering the 14 overlapping days pursuant to 37 CFR 1.703(a)(2) beginning on June 27, 2008, the day after the date four months after a reply was filed on February 26, 2008, and ending on July 10, 2008, the date a final Office action was mailed in response, the "B" delay is 248 (262 – 14) days.

The patent term adjustment at the time of issuance of the patent is updated to 653 days (405 days of Office delay + 248 days of over three years delay – 0 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

No fee is due with the subject request for reconsideration.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred fifty-three (653)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,604,818 B2

DATED : **Oct. 20, 2009** **DRAFT**

INVENTOR(S) : Pacetti

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 653 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG
& WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application of :
Goel :
Application No. 11/021,788 :
Filed: 23 December, 2004 :
Attorney Docket No. 2043.235US1 :

DECISION

This is a decision on the petition filed on 10 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b) .

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

Petitioner failed to reply timely and properly to the decision of the Board of Patent Appeals and Interferences (BPAI) mailed on 27 April, 2011, with reply due absent extension of time on or before 27 June, 2011.

The application went abandoned by operation of law after midnight 27 June, 2011.

The Office mailed the Notice of Abandonment on 15 July, 2011.

On 10 August, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of a request for continued examination (RCE) and fee and a submission

under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3625 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED

SEP 21 2010

OFFICE OF PETITIONS

KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY MN 55422

In re Application of	:	
Richard J. Schoeneck	:	
Application No. 11/021,976	:	NOTICE
Filed: December 22, 2004	:	
Attorney Docket No. **20060564 (27644.21)**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
SEP 07 2011
OFFICE OF PETITIONS

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD IL 61101

In re Application of	:	
John J. MCKILLIP	:	ON PETITION
Application No. 11/022,059	:	
Filed: December 22, 2004	:	

This is in response to the petition under 37 CFR 1.137(b), filed August 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed March 26, 2010, which set a statutory period for reply of three (3) months. No reply was received, The application became abandoned June 29, 2010. A Notice of Abandonment was mailed July 12, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue fee in accordance with the Notice mailed March 26, 2010, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the Notice is accepted as being unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

This application is being referred to the Office of Data Management for further processing.

Ramesh Krishnamurthy
for Anthony Knight
Director
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.
11/022,088	12/23/2004	Philip Stewart Low	3220-76260	4799

7590 06/01/2011
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

EXAMINER
ROONEY, NORA MAUREEN

ART UNIT	PAPER NUMBER
1644	

NOTIFICATION DATE	DELIVERY MODE
06/01/2011	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 29, 2011

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of	:	
Philip Stewart Low	:	**DECISION ON PETITION**
Application No. 11022088	:	
Filed: 12/23/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **3220-76260**	:	***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) December 23, 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.

/Laura Feldman/
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
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OSHA, LIANG LLP / SMITH (For Patent Owner)
TWO HOUSTON CENTER
909 FANNIN STREET, SUITE 3500
HOUSTON TX 77010

MAILED
OCT 04 2010
OFFICE OF PETITIONS

BAKER BOTTS L.L.P. (For Petitioner)
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

Access Petition for *in re* application :
Ronald K. Eyre :
Application No. 11/022271 : DECISION
Filed: December 22, 2004 : ON
US Patent No.: 7,608,333 : PETITION
Issued: October 27, 2009 :
Attorney Docket No. 05516/394002 :
Title: THERMALLY STABLE DIAMOND POLYCRYSTALLINE DIAMOND CONSTRUCTIONS

This is a decision on the December 23, 2009 third party petition entitled, "PETITION FOR ACCESS UNDER 37 C.F.R. § 1.14(h [*sic* (i)])"

The petition for access is before the Office of Patent Legal Administration.

The petition under 37 CFR 1.14(i) for access is **dismissed as moot**.

FEES

A petition under 37 CFR 1.14(i) requires a petition fee of $200.00 under 37 CFR 1.17(g), which was charged to petitioner's Deposit Account No. 50-2148 as authorized in the December 23, 2009 EFS-WEB Fee transmittal.

BACKGROUND

1. On December 22, 2004, an application for patent was filed as assigned application serial number 11/022,271 (the '271 application).

2. On March 23, 2006, the Office published the '271 application as U.S. Patent Application No. 20060060390 A1.

3. On October 27, 2009, the '271 application issued as U.S. Patent No. 7,608,333 B1 to Ronald K. Eyre (the '333 patent).

4. On December 23, 2009, a third party petitioner requested access to specific documents previously expunged by the Office in the '271 application.

5. On June 22, 2010, the Office issued a three week letter to the patent owner, including a copy of the December 23, 2009 petition for access.

6. On July 12, 2010, the third party petitioner requested the December 23, 2009 petition for access be withdrawn.

7. On July 13, 2010, patent owner responded to the June 22, 2010 three week letter informing the Office that a copy of the documents for which access was requested were provided to the third party petitioner.

8. On August 26, 2010, the third party petitioner again requested the December 23, 2009 petition for access be withdrawn.

Petitioner is requested access to specific documents the Office has expunged from the record. Patent owner has provided copies of the documents to petitioner. As the record no longer contains the specifically requested documents and petitioner now has a copy of the documents for which access was requested the petition for access is **dismissed as moot**.

CONCLUSION

1. The petition under 37 CFR 1.14(i) for access is **dismissed as moot**.

2. Inquiries relating to this matter may be directed to the undersigned at (571) 272-7759.

JOSEPH F. WEISS, JR.
Legal Advisor
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101014

DATE : October 14, 2010

TO SPE OF : ART UNIT 2121

SUBJECT : Request for Certificate of Correction on Patent No.: 7,640,079

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:

/ALBERT DECADY/
Supervisory Patent Examiner, Art Unit 2121

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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BAINWOOD HUANG AND ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH MA 01581

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
C. Ilhan Gundogan et al.	:	
Patent No. 7,262,972	:	
Issued: August 28, 2007	:	NOTICE
Application No. 11/022,509	:	
Filed: December 22, 2004	:	
Attorney Docket No. **EMC04-62**	:	

This is a notice regarding your request filed March 24, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-11-11 **Paper No.:** _____

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/022672 Patent No.: 7,825,330

CofC mailroom date: 11-2-10

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: _____

Ula Ruddock
SPE

1729
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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BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,783,968	: DECISION ON PATENT TERM
Issued: August 24, 2010	: ADJUSTMENT and NOTICE OF INTENT
Application No. 11/022,898	: TO ISSUE CERTIFICATE OF
Filed: December 22, 2004	: CORRECTION
Dkt. No.: 007412.01055	:

This is a decision on the petition filed on September 10, 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 1136 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 1136 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1136 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,783,968

DATED : August 24, 2010 **DRAFT**

INVENTOR(S) : Sahota, 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 1002 days

Delete the phrase "by 1002 days" and insert – by 1136 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
25 James Way
Eatontown, NJ 07724

Mail Date: 08/04/2010

Applicant	: Oliver Haase	: DECISION ON REQUEST FOR
Patent Number	: 7643626	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/022,915	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1405** 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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INTELLECTUAL PROPERTY DEPT.
DEWITT ROSS & STEVENS SC
2 EAST MIFFLIN STREET
SUITE 600
MADISON WI 53703-2865

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of
Donald J. Mischo et al. :
Application No. 11/023,005 : ON PETITION
Filed: December 27, 2004 :
Attorney Docket No. 11501.016 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 6, 2008 for failure to timely reply to the Final Office Action mailed February 4, 2008 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed September 3, 2008.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3643 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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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United States Patent and Trademark Office
P.O. Box 1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of
Michael Allen Bryner, et al.
Application No. 11/023,067
Filed: December 27, 2004
Attorney Docket No.: TK4125USNA

ON PETITION

This is a decision in response to the petition, filed August 25, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 13, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 14, 2010. A Notice of Abandonment was mailed on August 19, 2010. On August 25, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the amendment received August 25, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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RISSMAN HENDRICKS & OLIVERIO, LLP
100 Cambridge Street
Suite 2101
BOSTON MA 02114

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Roman Denk	:	
Application No. 11/023,928	:	DECISION ON PETITION
Filed: December 28, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 29, 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 December 30, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 3, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1613 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MAILED
NOV 04 2011
OFFICE OF PETITIONS

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2nd FLOOR
DULUTH GA 30096

In re Application of	:	DECISION ON PETITION
Stevens	:	PURSUANT TO
Application No. 11/023,941	:	37 C.F.R. § 1.181(A)
Filed: December 27, 2004	:	
Attorney Docket No.: 10305	:	
Title: USER IDENTIFICATION AND	:	
DATA	:	
FINGERPRINTING/AUTHENTICATION	:	

This is a decision on the petition filed October 18, 2011, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

Receipt of the concurrently submitted amendment and remarks is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed November 9, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 10, 2011. A notice of abandonment was mailed on August 26, 2011.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application

number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has stated that the Office action was not received at the correspondence address of record[1] and that a search of the "Applicants' records, including the file jacket and application contents" was performed, and the relevant Office communication was not located.[2] Petitioner has further provided both a copy of the master docket for the relevant time

1 Petition, pages 1-2.
2 Id. at 2.

period[3] and a copy of the docket report that is associated with this particular application.[4]

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

Petitioner has failed to either describe the docketing system that Petitioner has in place or establish that it is sufficiently reliable.

More specifically, the record suggests that Petitioner utilizes a computerized docketing system. Presuming that this is the case, the petition is silent as to how information is entered into this docketing system, or how this docketing system serves to ensure that the correspondence recorded therein is responded to in a timely manner. Does this computer-based docketing software program generate reports that are distributed to the responsible attorneys/agents? Does it generate periodic reminders prior to the due dates? If so, are these reminders distributed to the responsible attorneys/agents?

On renewed petition, this matter should be further developed.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

---

3 Attachment entitled "Due Date List By Date."
4 Attachment entitled "Country Application."
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300: please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Statements based on hearsay will not normally be accepted.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/024,083	12/28/2004	Olivier de Barsy	GTRC-246	1707

26875 7590 11/03/2010
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER
MAKI, STEVEN D

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
11/03/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. 7,341,082	:	
Issue Date: March 11, 2008	:	**DECISION GRANTING**
Appl No.: 11/024,083	:	**PETITION**
Filed: December 28, 2004	:	*37 CFR 1.324*
For: SHOULDER RIBS FOR PNEUMATIC TIRES	:	
	:	
	:	
	:	

This is a decision on the petition filed July 29, 2010 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.

Richard Crispino
Supervisory Patent Examiner
Art Unit 1747
Technology Center 1700

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

UNITED STATES 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: November 2, 2010
TO: Certificates of Correction Branch
FROM: Richard Crispino
SPE, Art Unit 1747
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,341,082 as specified on the attached Certificate.

Richard Crispino, SPE
Art Unit 1747

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,341,082
Patented: March 11, 2008

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

de Barsey, Olivier
Nguyen, Gia-Van

Richard Crispino
Supervisory Patent Examiner
Art Unit 1747

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/12/11

TO SPE OF : ART UNIT 2432

SUBJECT : Request for Certificate of Correction for Appl. No.: 11024160 Patent No.: 8032920

CofC mailroom date: 11/29/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should the changes to Other Publications 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: All changes are for correction of typos only.

/Gilberto Barron Jr./ — **SPE**

2432 — **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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HARVARD UNIVERSITY & MEDICAL SCHOOL
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,708,949 :
Issue Date: May 4, 2010 :
Application No. 11/024,228 : ON PETITION
Filed: December 28, 2004 :
Attorney Docket No. H0498.70202US00 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed June 20, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FOX ROTHSCHILD LLP
PRINCETON PIKE CORPORATE CENTER
997 LENOX DRIVE
BLDG. #3
LAWRENCEVILLE NJ 08648

MAILED
SEP 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,250,154 :
Issued: 07/31/2007 :
Application No. 11/024,355 : NOTICE
Filed: 12/28/2004 :
Attorney Docket No. P22,591-A-US2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 6, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, IN 46204

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Patent of Robert J. Smith et al.	:	
Patent No. 7,249,690	:	
Issue Date: July 31, 2007	:	Letter
Application No. 11/024,366	:	
Filing Date: December 24, 2004	:	
Attorney Docket No. 5723-208212	:	

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed March 3, 2011.

The deficiency payment of $490 is hereby accepted.

The change of status to large entity has been entered and made of record.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent in this case. In addition, the file does not indicate a change of address has been submitted even though the address given on the petition differs from the address of record. Although this decision is being mailed to the address on the petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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
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P.O. Box 1450
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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of
Katherine Meyer Siegler, et al.
Application No. 11/024,405
Filed: December 30, 2004
Attorney Docket No. 111828-00118

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 13, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Blank Rome, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Petitioner should also note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

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 Number Data Change (PTO/SB/124) and not a Request for Withdrawal As Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to 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: KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

MAILED
JAN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
John W. PETTIT	:	
Application No. 11/024,410	:	DECISION ON PETITION
Filed: December 30, 2004	:	
Attorney Docket No. 000049-00116	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 12, 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 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 a Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

The Office acknowledges the Power of Attorney filed July 21, 2005, however, since it is not in compliance with 37 CFR 1.32 (5) (c)(3), it has not been entered.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This matter, including the Pre-Appeal Brief Request for Review, is being referred to Technology Center AU 2818 for further processing.

/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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BAKER & HOSTETLER LLP
WASHINGTON SQUARE SUITE 1100
1050 CONNECTICUT AVE NW
WASHINGTON DC 20036-5304

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Roberts, et al.	:	DECISION GRANTING
Application No. 11/024,454	:	PETITION
Filed: December 30, 2004	:	
Attorney Docket No. 87355.8300	:	

This is a decision on the petition under 37 CFR 1.183, filed July 6, 2011, to waive § 131's requirement that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **GRANTED**.

A non-final Office action was mailed on January 6, 2011. This office action set a shortened statutory period for reply of three months.

In response, on July 6, 2011, applicants submitted a reply and a declaration under 37 CFR 1.131, made timely by obtaining a three month extension of time. The 37 CFR 1.131 declaration stated that all of the inventors conceived the inventive embodiment of the instant application at least as early as May 13, 2004.

However, the 37 CFR 1.131 declaration lacked the signature of joint inventor Namaky. Applicants have filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by Namaky.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[1]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[2]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are the joint inventors.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by all of the joint inventors. However, only one of the joint inventors has executed the declaration. Applicants have demonstrated that a *bona fide* effort was made to secure the signature of joint inventors Namaky. Accordingly, it is concluded that applicants have demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

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[1] 37 CFR 1.131(a) (emphasis added).

[2] MPEP 715.04.

The application is being forwarded to Group Art Unit 3663 for consideration of the Amendment and the 37 CFR 1.131 declaration, both filed July 6, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Mpr et al.	:	
Application No. 11/024,561	:	DECISION GRANTING PETITION
Filed: December 22, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 15477US01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 26, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth in the amendment filed concurrently with the instant 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 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 nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed

nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit 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. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 nonprovisional application, accompanies this decision on petition.

Further, petitioner's deposit account has been charged the required surcharge fee of $1,410.00 as authorized October 26, 2010.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 2482 for appropriate action on the amendment filed October 26, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional 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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/024,561	12/22/2004	2482	1052	15477US01	15	3

CONFIRMATION NO. 4411

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000044850998

Date Mailed: 12/08/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Srinivas MPR, Bangalore, INDIA;
Sherman Chen, San Diego, CA;
Sandeep Bhatia, Bangalore, INDIA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CIP of 10/340,061 01/09/2003 PAT 7,787,539

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/024,561**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System, method, and apparatus for determining presentation time for picture without presentation time stamp

Preliminary Class

348

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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Innovation Counsel LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino CA 95014

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NOV 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,452,614 :
Issue Date: November 18, 2008 :
Application No. 11/024,608 : DECISION ON PETITION
Filed: December 30, 2004 :
Attorney Docket No. 21ST01674 US :

This is a decision on the Request Certificate Of Correction To Correct Name Of Assignee Per 37 CFR 3.81(b), filed on September 22, 2010, requesting correction, on the Title Page of the subject patent, to identify the second assignee's name. The Request is being treated as a petition under 37 CFR 1.322(a) for which no fee is required. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR 1.322(a) is **GRANTED**.

Petitioner urges that the present Petition was submitted to add the omitted second assignee's name on the previously submitted PTOL-85b and that such error was inadvertent.

A review of United States Patent and Trademark Office (USPTO) records reveals that a copy of assignment documents were received and stamped by the USPTO on October 26, 2005. However, since the assignment was never recorded properly by the USPTO no fee will be charged. Therefore, the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), will be credited to petitioner's deposit account.

Telephone inquiries related this communication should be directed to the undersigned at (571)272-3213. Inquiries regarding this 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 granted the petition under 37 CFR 1.322(a) and directing issuance of the requested Certificate of Correction.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Gundula Roth et al	:	
Application No. 11/024,722	:	DECISION ON PETITION
Filed: December 30, 2004	:	
Attorney Docket No. P2672US00	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed June 1, 2011, which requests that the terminal disclaimer filed on February 25, 2011, be withdrawn.

The petition is **dismissed.**

Per the examiner, the terminal disclaimer does not apply to at least one claim of record (Claim # 3, 4, and 7-9, because the terminal disclaimer overcame ODP rejections over these claims. Therefore, the recorded terminal disclaimer of February 25, 2011, should be retained.

Telephone inquiries should be directed to the undersigned at (571)272-3208.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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February 14, 2012

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON DC 20005

Re Application of
SATO, SHINTARO
Application: **11/024756**
Filed: **12/30/2004**
Attorney Docket No: **040686**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **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) December 30, 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.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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SEP 24 2010

OFFICE OF PETITIONS

STEN GERFAST
1802 VALLEY CURVE
MENDOTA HEIGHTS MN 55118

In re Application of Sten R. Gerfast Application No. 11/025,022 Filed: December 30, 2004 Title: Control Signals for Single Coil Brushless Motor	: : : : :	ON PETITION

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed August 18, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a **proper** reply to the final Office action mailed November 1, 2005. This Office action set a shortened statutory period for reply of three (3) months. No proper reply having been received, the above-identified application became abandoned on February 2, 2006. The Office mailed a Notice of Abandonment on October 6, 2006. Applicant filed a petition to revive under 37 CFR 1.137(a) on December 4, 2009. However, the petition was dismissed in a decision mailed on January 7, 2010. The petition was dismissed because applicant did not submit a proper reply to the final Office action. In addition, the petition was dismissed because petitioner did not establish that the entire period of delay was unavoidable. Applicant then filed a petition to revive under 37 CFR 1.137(b) on March 1, 2010. However, that petition

was dismissed in a decision mailed on March 25, 2010. The petition was dismissed because while petitioner paid the petition fee, petitioner failed to submit a proper reply to the November 1, 2005 final Office action. Moreover, petition did not account for the delay in filing the first petition on December 4, 2009, after the Office mailed a Notice of Abandonment three years earlier on October 6, 2006. Applicant filed a renewed petition on April 12, 2010, which was again dismissed in a decision mailed on May 17, 2010, and another renewed petition on June 22, 2010, which was dismissed on July 19, 2010.

With the instant renewed petition, petitioner has submitted the proper reply in the form of a Request for Continued Examination (RCE). The other requirements for a grantable petition under 37 CFR 1.137(b) have been previously satisfied.

The application is being forwarded to Group Art Unit 2837 for consideration of the RCE filed August 18, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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STEN GERFAST
1802 VALLEY CURVE
MENDOTA HEIGHTS MN 55118

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Application of	:	
Sten R. Gerfast	:	
Application No. 11/025,022	:	ON PETITION
Filed: December 30, 2004	:	
Title: Control Signals for Single Coil Brushless Motor	:	

This is a decision on the petition to revive the abandoned application under 37 CFR 1.137(b), filed January 12, 2012.

The petition under 37 CFR 1.137(b) is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. 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)." No additional petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed March 23, 2011. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a reply on May 6, 2011. However, by Advisory Action mailed May 31, 2011, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition

for allowance. Applicant filed another Amendment on June 13, 2011. However, the Examiner mailed another Advisory Action on August 26, 2011. Applicant again filed an Amendment on September 9, 2011. However, this Amendment was not accompanied by the required three month extension of time. As such, the application became abandoned on June 24, 2011. The Office mailed a Notice of Abandonment on December 6, 2011.

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 set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Here, petitioner has not met requirement (1) above.

Petitioner has filed a Pre-Appeal Brief Request for Review. However, before Petitioner can file the Pre-Appeal Brief Request for Review, Petitioner must first file a Notice of Appeal. Form PTO/SB/33 is enclosed for Petitioner's convenience. Petitioner should complete the form and file it with his renewed petition to the address below. It is noted that Petitioner has already paid the fee for the Notice of Appeal.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/33 (1 page)
Privacy Act Statement (1 page)

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STEN GERFAST
1802 VALLEY CURVE
MENDOTA HEIGHTS MN 55118

MAILED
FEB 21 2012
OFFICE OF PETITIONS

In re Application of	:	
Sten R. Gerfast	:	
Application No. 11/025,022	:	ON PETITION
Filed: December 30, 2004	:	
Title: Control Signals for Single Coil Brushless Motor	:	

This is a decision on the renewed petition to revive the abandoned application under 37 CFR 1.137(b), filed February 13, 2012.

The petition under 37 CFR 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed March 23, 2011. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a reply on May 6, 2011. However, by Advisory Action mailed May 31, 2011, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. Applicant filed another Amendment on June 13, 2011. However, the Examiner mailed another Advisory Action on August 26, 2011. Applicant again filed an Amendment on September 9, 2011. However, this Amendment was not accompanied by the required three month extension of time. As such, the application became abandoned on June 24, 2011. The Office mailed

a Notice of Abandonment on December 6, 2011. Applicant filed a petition to revive under 37 CFR 1.137(b), together with a Pre-Appeal Brief Request for Review, on January 12, 2012. However, the petition was dismissed in a decision mailed on January 23, 2012. The petition was dismissed because Applicant did not first file a Notice of Appeal.

With the instant renewed petition, petitioner has filed a Notice of Appeal (the fee for the Notice of Appeal was previously paid on January 12, 2012). The other requirements for a grantable petition were previously satisfied with the petition filed January 12, 2012.

The application is being forwarded to Group Art Unit 2837 for consideration of the Pre-Appeal Brief Request for Review, filed February 13, 2012.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 08/25/2010

Applicant	: Winfried Schwarzmann	: DECISION ON REQUEST FOR
Patent Number	: 7627856	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/025,052	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1372** 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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Date: 08/27/10

Patent No. : 7459107 B2
Ser. No. : 11/025,152
Inventor(s) : YAMASHITA, KIICHI
Issued : 12/02/08
Title : **TWO-PACK URETHANE FOAM COMPOSITION, AND TWO-PACK URETHANE FOAM COMPOSITION INJECTING APPARATUS AND METHOD**
Docket No. : **2004_2062**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH LIND & PONACK LLP
1030 15TH STREET NW
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED
FEB 03 2012
OFFICE OF PETITIONS

In re Patent No. 7,459,107	:	
Issue Date: December 2, 2008	:	
Application No. 11/025,152	:	DECISION ON PETITION
Filed: December 30, 2004	:	
Attorney Docket No. 2004_2062	:	

This is a decision on the "RE-SUBMISSION OF REQUEST UNDER 37 CFR 3.81(B)", filed January 4, 2012.

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 $100 fee for the Certificate of Correction is and the $130 processing fee for the instant petition is acknowledged.

The application 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.

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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CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
34TH FLOOR
500 WEST MADISON ST.
CHICAGO IL 60661

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,653,135
Issued: January 26, 2010
Application No. 11/025,327
Filed: December 29, 2004
Attorney Docket No. 15329US02

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

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 1420 days to 1421 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.

The patent term adjustment calculation has been reviewed. Patentees have miscalculated the delay pursuant to 37 CFR § 1.704(c)(10). The first day of the calculation is December 10, 2009, the date the 37 CFR § 1.312 amendment was filed, and ends on December 17, 2009, the date the response was filed, for a total of 8 days. As such, the total patent term adjustment is 1420 (960 "A delay" days + 759 "B delay" days minus 291 days overlap minus 8 Applicant delay days) 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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RACUNAS LAW LLC
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

FEB 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,249,126	:	
Issued: July 24, 2007	:	
Application No. 11/025,340	:	ON PETITION
Filed: December 29, 2004	:	
Attorney Docket No. 1100P674US1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 10, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/02/2010

Applicant	: Frank Kilian	: DECISION ON REQUEST FOR
Patent Number	: 7672949	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/025,378	: OF WYETH
Filed	: 12/28/2004	:
		:

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.

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
JAN 17 2012
OFFICE OF PETITIONS

In re Application of	:	ON APPLICATION FOR
Brownhill et al.	:	RECONSIDERATION OF THE
Patent Number: 8,032,727	:	PATENT TERM ADJUSTMENT
Issue Date: 10/04/2011	:	and
Application No. 11/025413	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 12/22/2004	:	CERTIFICATE OF CORRECTION
Attorney Docket Number:	:	
15902US02	:	

This is a decision on the petition filed on filed December 5, 2011, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred eighty (1680) 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 eighty (1680) day is **GRANTED to the extent indicated herein**.

Patentees provide that this Office errantly calculated the patent term adjustment under the three year guarantee (35 U.S.C. § 154(b)(1)(B)), at zero (0) days. Patentees assert that the period of adjustment under the three year deadline for issuing a patent after its filing date is 1382 days, minus 1349 days consumed by appeal, for a net adjustment of 33 days.

A review of office records confirms that applicants was filed on December 22, 2004, and that the period of adjustment pursuant to 35 U.S.C. § 154(b)(1)(B) and 37 CFR 1.702(b), beginning on the day after the date that is three years after the application was filed, December 23, 2007, and ending on the issue date of the patent, October 4, 2011, is 1382 days, reduced by the period of appeal, 1349 days, or 33 days.

Office records also confirm that Patentees filed an amendment under 37 C.F.R. 1.312 on August 22, 2011, and the Office mailed a reply to the amendment on September 2, 2011, and the Office properly calculated a reduction pursuant to 37 CFR 1.704(c)(10) of 12 days, beginning on the date the amendment under § 1.312 was filed, and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312.

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 Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand six hundred seventy-eight **(1678)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,032,727 B2

DATED : **October 4, 2011**

INVENTOR(S) : Brownhill 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 1645 days.

Delete the phrase "by 1645 days" and insert – by 1678 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/025,528	12/29/2004	Paula M. Sosalla	20,314	6681

7590 05/05/2011
KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

EXAMINER
STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
3761	

MAIL DATE	DELIVERY MODE
05/05/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES 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 5, 2011

KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH WI 54956

In re Application of	:	
Paula M. Sosalla et al.	:	**DECISION ON PETITION**
Application No. 11025528	:	
Filed: 12/29/2004	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 20,314	:	***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) December 29, 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

DATE : 10/14/10

Paper No.: _____

TO SPE OF : ART UNIT 2431

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/025,531

Patent No.: 7,796,755

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 /William Korzuch/ **ART UNIT** 2431

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED
JAN 10 2012
OFFICE OF PETITIONS

In re Application of	:
Danieli et al.	:
Application No. 11/025,625	: DECISION ON PETITION
Filed: December 29, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MS1-3445US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 23, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3176 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application and the response to the September 23, 2011 non-final Office action, both filed on December 23, 2011.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/025,625	12/29/2004	3716	1000	MS1-3445US	17	2

CONFIRMATION NO. 3104

CORRECTED FILING RECEIPT

22801
LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

OC000000051830208

Date Mailed: 01/06/2012

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)

Damon V. Danieli, Clyde Hill, WA;
Noah Heller, Kirkland, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number 22801

Domestic Priority data as claimed by applicant

This application is a CON of 10/150,781 05/17/2002 PAT 6905414
and is a CIP of 10/147,578 05/16/2002 PAT 6935959

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: 02/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/025,625**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Banning verbal communication to and from a selected party in a game playing system

Preliminary Class

463

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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JAN 30 2012

OFFICE OF PETITIONS

In re Application of
Zander et al.
Application No. 11/025,645
Filed/Deposited: 28 December, 2004
Attorney Docket No. 19996.1

DECISION

This is a decision on the papers filed on 19 December, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

The 1 September, 2011, decision of the Board of Patent Appeals and Interferences (BPAI/the Board) stated:

> ... Appellants, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new grounds of rejections to avoid termination of the appeal as to the rejected claims: (1) *Reopen prosecution*. Submit and appropriate amendment of the claims so rejected ***.
> (2) *Request rehearing* *** . (Emphasis, the original)

It appears that Petitioner did neither.

The Rules of Practice[1] and the guidance in Commentary in the Manual of Patent Examining Procedure (MPEP)[2] provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules and guidance are not complied with/followed.

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[1] *See:* 37 C.F.R.: http://www.uspto.gov/web/offices/pac/mpep/documents/appxr.htm .

[2] *See:* MPEP: http://www.uspto.gov/web/offices/pac/mpep/index.htm .

The petition pursuant to 37 C.F.R. §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. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request 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.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

In light of the express requirements set forth in the decision of the BPAI, Petitioner failed to reply timely and properly to the 1 September, 2011, decision of the BPAI, with reply due absent extension of time on or before 1 November, 2011.

The application went abandoned after midnight 1 November, 2011.

The Office mailed the Notice of Abandonment on 4 November, 2011.

On 19 December, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 to withdraw the holding of abandonment, and therein averred that there had been no action mailed by the Examiner. As noted above, the BPAI required a reply of the Petitioner and no reply has been filed. While Petitioner still may reply with a request and fee for extension of time (and the 4 November, 2011, Notice of Abandonment might be viewed as premature), Petitioner has yet to submit a timely reply. At such time as Petitioner elects to file a timely and proper reply, Petitioner may re-advance the instant petition with the proper narrative and documentary support or—if more appropriate—file a proper petition pursuant to the regulations at 37 C.F.R.

§1.137(b) (i.e., the requirements of a petition averring unintentional delay are: a petition, petition fee, reply and statement of unintentional delay, with (where applicable) a terminal disclaimer and fee).

Petitioner has failed to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I) with regard to the withdrawal of the holding of abandonment. Petitioner may find it beneficial to review that material and move step-wise through them.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to nonreceipt:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[3]

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The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

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[3] *See*: MPEP §711.03(c) (I)(A).

***

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [4]

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[4] *See*: MPEP §711.03(c) (I)(B).

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A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and 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.[5]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[6],[7]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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[5] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[6] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[7] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[8]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

As discussed above, Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for

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[8] 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).

the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal 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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In re Application of :
Zander et al. :
Application No. 11/025,645 : DECISION
Filed/Deposited: 28 December, 2004 :
Attorney Docket No. 19996.1 :

This is a decision on the papers filed on 7 February, 2012, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the 1 September, 2011, decision of the Board of Patent Appeals and Interferences (BPAI), with reply due absent extension of time on or before 1 November, 2011.

The application went abandoned after midnight 1 November, 2011.

The Office mailed the Notice of Abandonment on 4 November, 2011.

On 19 December, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 to withdraw the holding of abandonment, and therein averred that there had been no action mailed by the Examiner. This contrasted with the BPAI, which required a reply of the Petitioner and no reply was filed. The petition was dismissed on 30 January, 2012.

On 7 February, 2012, Petitioner re-advanced the petition and this time properly pointed to the guidance in the Commentary at MPEP §1214.06(II) in satisfaction of the showing required under the Rule and in compliance with the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I) with regard to the withdrawal of the holding of abandonment.

There is guidance in the Commentary at MPEP §711.03(c)(I) with regard to a petition pursuant to 37 C.F.R. §1.181 averring nonreceipt.[1]

There also is guidance in the Commentary at MPEP §711.03(c)(I) with regard to a petition pursuant to 37 C.F.R. §1.181 averring timely filing.[2]

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[1] With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to nonreceipt:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

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[2] The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

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mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

As discussed above, Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **granted**, and the 4 November, 2011, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 3761 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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[6] 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).

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[7]) 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

[7] 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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NIXON PEABODY LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Shinji Maekawa et al	:	
Application No. 11/025,921	:	DECISION GRANTING PETITION
Filed: January 3, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2800	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 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 2, 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 1721 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20/10

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11026029 Patent No.: 7783520

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.

Comments: _____

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3625
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/04/10

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 11026095 Patent No.: 7403553

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: _____

MINSUN OH HARVEY
PRIMARY EXAMINER
SPE

2828
Art Unit

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FANN-MKE C/O
FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Weber, et al.	:	
Application No. 11/026,102	:	ON REQUEST FOR
Filed: December 30, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 037607-0327	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 2, 2010. Applicants believe that they should be accorded an additional PTA of 538 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **seven hundred thirty-two (732) days** (764 days of PTO delay, reduced by 32 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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April 21, 2011

Adams and Reese LLP
1221 McKinney Street, Suite 4400
Houston TX 77010

Re Application of
CALDERON, REYNALDO, Et al
Application: **11/026103**
Filed: **12/30/2004**
Attorney Docket No: **12376-2B**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 03, 2007.

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.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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: 139282-US-NP	Patent Number: 7,660,409
Filing Date (or 371(b) or (f) Date): December 30, 2004	Issue Date: February 9, 2010
First Named Inventor: Richard Marion Czerwiec	
Title: Multi-dwelling unit module for passive optical networks	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ALCATEL-LUCENT
C/O GALASSO & ASSOCIATES, LP
P. O. BOX 26503
AUSTIN, TX 78755-0503

Mail Date: 08/16/2010

Applicant	: Richard Marion Czerwiec	: DECISION ON REQUEST FOR
Patent Number	: 7660409	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/026,123	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1420** 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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MAILED
FEB 28 2011
OFFICE OF PETITIONS

James J. Wong
Gilead Sciences, Inc.
333 Lakeside Drive
Foster City CA 94404

In re Patent No. 7,553,825
Issued: June 30, 2009
Application No. 11/026,303
Filed: December 29, 2004
Dkt. No.: 588.PC

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed August 27, 2009 requesting that the patent term adjustment be increased from 321 days to 603 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The patent is entitled to an overall adjustment of 486 days.

The above-identified application issued as U.S. Pat. No. 7,553,825 on June 30, 2009. The patent issued with a patent term adjustment of 321 days. The instant application for patent term adjustment was timely filed August 27, 2009. Patentees assert entitlement to an additional adjustment of 282 days for the Office's failure to issue the patent within three years of the date that the application was filed.

Review of the record reveals that the patent is entitled to an adjustment of 486 days pursuant to 37 CFR 1.703(a)(1), from March 1, 2006 to June 29, 2007.

The patent is entitled to an adjustment of 281 days pursuant to 37 CFR 1.703(b). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period began on December 30, 2007 and ended October 5, 2008, the day before the RCE was filed, and not October 6, 2008. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over three year period is 281 days not 282 days.

However, the period of adjustment pursuant to 37 CFR 1.703(b) shall not include any time consumed by review by the Board of Patent Appeals. Accordingly, the period of adjustment of 281 days pursuant to 37 CFR 1.703(b) cannot include the period of 116 days from June 12, 2008, the date that the Notice of Appeal was filed, to October 5, 2008, the day before the date that the request for continued examination was filed.

The period of adjustment pursuant to 37 CFR 1.703 is properly reduced 165 days for applicant delays pursuant to 37 CFR 1.704.

In view thereof, the patent is entitled to an overall adjustment of 486 days (486 days pursuant to 37 CFR 1.703(a) + 281 days pursuant to 37 CFR 1.703(b) – 116 days pursuant to 37 CFR 1.703(b)(4) – 165 days pursuant to 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

Receipt is hereby acknowledged of the required $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 486 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.

There is no indication that the instant petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

CC: Jayme Huleatt
777 6th St., NW, Ste. 1100
Washington, DC 20001

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,553,825

DATED : June 30, 2009 **DRAFT**

INVENTOR(S) : Cheng, 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 321 days

Delete the phrase "by 321 days" and insert -- by 486 days --

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: 42P20399	Patent Number: 7,666,465
Filing Date (or 371(b) or (f) Date): 12-29-2004	Issue Date: 02-23-10
First Named Inventor: Paul B. Fischer	
Title: INTRODUCING NANOTUBES IN TRENCHES AND STRUCTURES FORMED THEREBY	

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 /Michael Plimier/	Date August 19, 2010
Name (Print/Typed) Michael Plimier	Registration Number 43,004

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/26/2010

Applicant	: Paul B. Fischer	: DECISION ON REQUEST FOR
Patent Number	: 7666465	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/026,320	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **418** 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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THE WEBOSTAD FIRM, A PROFESSIONAL CORPORATION
150 NORTH WIGET LANE
SUITE 200
WALNUT CREEK, CA 94598

MAILED
OCT 01 2010
OFFICE OF PETITIONS

In re Patent No. 7,157,342 :
Issue Date: January 2, 2007 :
Application No. 11/026,400 : NOTICE
Filed: December 29, 2004 :
Attorney Docket No. WF014 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 08/04/2010

Applicant	: Craig Lauer	: DECISION ON REQUEST FOR
Patent Number	: 7647643	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/026,454	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1284** 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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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,713,934
Issue Date: May 11, 2010
Application No. 11/026,521
Filed: December 30, 2004
Attorney Docket No. 098100-0228

DECISION ON PETITION

This is a decision on the Request For Correction Of Assignee Pursuant To 37 C.F.R. §3.81(b), filed December 7, 2010, which is being treated as Petition Under 37 CFR §3.81(b), to identify the correct assignee's name and residence. 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 and residence 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 and residence to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), has been submitted. However, the requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (Modified PTO\SB\44) previously submitted.

However, petitioner requests several corrections to be made in Claim (2). Therefore, these corrections will be handled directly in the Certificate of Correction Branch.

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. 7,713,934.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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HUNTON & WILLIAMS LLP / SYMANTEC CORPORATION
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, NW
SUITE 1200
WASHINGTON DC 20006-1109

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SEP 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Venable	:	
Application No. 11/026,525	:	ON APPLICATION FOR
Filed: December 30, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.SYMAP056	:	

This is in response to the "APPLCIATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed August 20, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submit that the patent term one thousand, three hundred and fourteen (1,314) days, not six hundred and fourteen (614) 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 December 17, 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 (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110718

DATE : July 18, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7776983

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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AT&T Legal Department - HBH
Attn: Patent Docketing
One AT&T Way, Room 2A-207
Bedminster, NJ 07921

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FEB 18 2011
OFFICE OF PETITIONS

In re Application of :
Samuel N. ZELLNER, et *al.* :
Application No. 11/026,737 : DECISION GRANTING PETITION
Filed: December 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
040306/60027.5199USI1

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 18, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 8, 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 2168 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

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DEC 21 2010

OFFICE OF PETITIONS

In re Application of
Leonard Pennock et al.
Application No. 11/026,985
Filed: December 30, 2004
Attorney Docket No. CE1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 26, 2010. Accordingly, the date of abandonment of this application is October 27, 2010. A Notice of Abandonment was mailed on November 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 $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
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P.O. Box 1450
Alexandria, VA 22313-1450
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MCCARTER & ENGLISH, LLP STAMFORD
CANTERBURY GREEN
201 BROAD STREET, 9TH FLOOR
STAMFORD CT 06901

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SEP 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Jens Peter TIMM et al.	:	
Application No. 11/027,073	:	DECISION ON PETITION
Filed: December 31, 2004	:	
Attorney Docket No. 99560.00012	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 02, 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 March 17, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 June 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 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) 272-4231.

This application is being referred to Technology Center AU 3733 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No.7,589,790	:	
Wyman, et al.	:	DECISION FOR REQUEST
Issue Date : September 15, 2009	:	FOR RECONSIDERATION
Application No.11/027,140	:	OF PATENT TERM
Filed: December 30, 2004	:	ADJUSTMENT
Attorney Docket No. **16226US02**	:	

This is a decision on the "Request for Reconsideration of USPTO Recalculation of Patent Term Adjustment in View of *Wyeth*," filed June 18, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from five hundred and seventy-five (575) days to five hundred and seventy-seven (577) 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 15, 2009, the above-identified application matured into U.S. Patent No. 7,589,790, with a revised patent term of 575 days. A Request for Recalculation of Patent Term Adjustment in View of Wyeth was filed on March 10, 2010. A decision was mailed on May 18, 2010, indicating that the patent term adjustment had been determined to be five hundred and seventy-five (575) days. The instant request for reconsideration filed June 18, 2010, was timely filed within one month of the date the petition recalculation decision was mailed. Patentee asserts that the adjustment under 37 CFR 1.702(b) and 37 CFR 1.703(b), is 116 days, not 115 days. Further, patentee argues that the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) for the filing of the Information Disclosure Statement on June 9, 2009, is 8 days, not 9 days. Patentee concludes that the patent term adjustment is 577 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 December 31, 2007, and ends on April 23, 2008, the day before the RCE was filed, and is 115 (not 116) days. See 35 U.S.C. 154(b)(1)(B)(i).

It is further noted that patentee asserts that only 8 days of reduction to the patent term adjustment should be entered for the filing of the Information Disclosure Statement (IDS) on June 9, 2009,

however, the period of reduction to the patent term adjustment under 37 CFR 1.704(c)(10) begins on, and includes, the date the IDS was filed and ends on, and includes, the mailing date of the response to the IDS. "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 reduction to the patent term adjustment is 9 days, beginning on June 9, 2009, and ending on June 17, 2009.

In view thereof, the patent term adjustment of 575 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 acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APR 20 2011

OFFICE OF PETITIONS

BALLARD SPAHR LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

In re Patent No. 7,817,640	:	
Issue Date: October 19, 2010	:	
Application No. 11/027,283	:	DECISION ON PETITION
Filed: December 31,2004	:	
Attorney Docket No. 06132.0003U2	:	

This is a decision on the petition under 37 CFR 1.182, filed January 27, 2011, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

The $400.00 fee for the petition under 37 CFR 1.182 has been paid.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management at (703) 756-1555.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

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AUG 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Lin, et al.	:	
Application No. 11/027,294	:	DECISION
Filed/Deposited: 30 December, 2004	:	
Attorney Docket No. 3382-69572-01	:	

This is a decision on the papers filed on 26 July, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on 27 May, 2011, with reply due absent extension of time on or before 27 June, 2011.

The application went abandoned by operation of law after midnight 27 June, 2011.

The Office mailed the Notice of Abandonment on 19 July, 2011.

On 26 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—but with no showing as required under the Rule, save that he was filing a request and fee for continued examination continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment. However, the only proper reply following the filing of a Notice of Appeal and fee (and following the Notice of Panel Decision from Pre-Appeal Brief Review) is an Appeal Brief and fee. The showing of record is that Petitioner has failed to file an Appeal Brief and fee. Thus, Petitioner's reply was not proper. Accordingly, Petitioner failed to make the showing required as set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to nonreceipt:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all

replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to

[1] *See*: MPEP §711.03(c) (I)(A).

> have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

A Petitioner unable to comply with and/or otherwise satisfy these requirements may revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the

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[2] *See*: MPEP §711.03(c) (I)(B).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

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[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[6] 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).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

The failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) 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

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Lin, et al.	:	
Application No. 11/027,294	:	DECISION
Filed/Deposited: 30 December, 2004	:	
Attorney Docket No. 3382-69572-01	:	

This is a decision on the papers filed on 11 August, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on 27 May, 2011, with reply due absent extension of time on or before 27 June, 2011.

The application went abandoned by operation of law after midnight 27 June, 2011.

The Office mailed the Notice of Abandonment on 19 July, 2011.

On 26 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—but with no showing as required under the Rule, save that he was filing a request and fee for extension of time and request and fee for continued examination continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment. A proper reply following the filing of a Notice of Appeal and fee was an Appeal Brief and fee. The showing of record was that Petitioner has failed to file an Appeal Brief and fee. The petition was dismissed on 5 August, 2011.

On 11 August, 2011, Petitioner re-advanced his petition and demonstrated that the Technology Center/AU had precipitously mailed the Notice of Abandonment on 19 July, 2011, and the submission of the filing of a request and fee for continued examination continued examination (RCE) and fee and a submission in the form of an amendment would constitute a withdrawal of his appeal (FAQ 39: http://www.uspto.gov/faq/pre_appealbrief_conf_pilot.jsp).

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

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> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous

> timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

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[1] *See*: MPEP §711.03(c) (I)(B).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted**, and the 19 July, 2011, Notice of Abandonment hereby is **vacated**.

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[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a 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).

The instant application is released to the Technology Center/AU 2471 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal 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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MAILED
MAY 11 2011
OFFICE OF PETITIONS

DEAN A. CRAINE
9-Lake Bellevue Drive
Suite 208
BELLEVUE WA 98005

In re Patent No. 7,171,817	:	
Issue Date: February 6, 2007	:	
Application No. 11/027,394	:	ON PETITION
Filed: November 30, 2004	:	
Attorney Docket No. BIDA 101	:	

This is a decision on the petition under 37 CFR 1.378(c), March 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 February 7, 2011, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
KAUFMAN, Jason	:	
Application No. 11/027,407	:	DECISION ON PETITION
Filed: December 29, 2004	:	TO WITHDRAW
Attorney Docket No. 13196/3	:	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 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 Michelle Carniaux on behalf of all attorneys of record who are associated with customer No. 26646. All attorneys/agents associated with the Customer Number 26646 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Jason Kaufman at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **JASON KAUFMAN**
340 E23RD STREET, APT. 4L
NEW YORK NY 10010

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF BARRY N. YOUNG
200 PAGE MILL ROAD
SUITE 102
PALO ALTO CA 94306

MAILED
MAR 01 2011
OFFICE OF PETITIONS

In re Patent No. RE39411 :
Issue Date: November 28, 2006 :
Application No. 11/027,588 : NOTICE
Filed: December 31, 2004 :
Attorney Docket No. C2393-1103 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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PCT LEGAL ADMINISTRATION

FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

In re Application of	:	
CHANDLER et al.	:	
Application No.: 11/027,652	:	
Filed: December 31, 2004	:	DECISION ON PETITION
Attorney Docket No.: LUMN.P0053US.....	:	
For: MULTIPLEXED ANALYSIS OF	:	
CLINICAL SPECIMENS APPARATUS	:	
AND METHODS		

This decision is issued in response to the "Amendment; and Petition under 37 CFR 1.78(a)(3) for Unintentional Delay in Correcting Priority Claim" filed December 27, 2011 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional and international applications set forth in the amended specification filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional

> information where there is a question whether the delay was unintentional.

The present petition fails to comply with item (1) above.

The amendment fails to state the relationship of International Application No. PCT/US96/16198 filed October 10, 1996, to nonprovisional application 08/852,401 filed October 11, 1995 and nonprovisinal applicaiton 08/540,814 filed October 11, 1995. (See 37 CFR 1.78(a)(2)(i)) The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of International Application No. ---, filed---." A benefit claim that merely states: "This application claims the benefit of International Application No. ---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11. Furthermore 201.11(III)(C), Reference to Prior Application states (emphasis added):

> The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. **Appropriate references must be made in each intermediate application in the chain of prior applications.** If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

Therefore, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters must be filed in the present application. Additionally, a petition under 37 CFR 1.78 must be filed in application no. 09/971,647 and an appropriate amendment or ADS must be filed in application 09/971,647 to add a proper reference to the provisional applications. Further, a petition under 37 CFR 1.182 and an appropriate amendment or ADS must be filed in application 09/000,286 to add a proper reference to nonprovisional application 08/852,401 filed October 11, 1995 and nonprovisinal applicaiton 08/540,814 filed October 11, 1995. Lastly, a petition under 37 CFR 1.182 and an appropriate amendment or ADS must be filed in application 09/335,519 to add a proper reference to nonprovisional application 08/540,814 filed October 11, 1995.

Additionally, the reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference application 10/329,391. 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).

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-26-10 **Paper No.**: _____

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/027,717 Patent No.: 7364217

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check drawings

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☒ **Denied** — State the reasons for denial below.

Numerous errors are present in the certificate of correction. Applicant will make appropriate corrections and resubmit the request, as discussed in an interview on 01/19/11 with Ronald Ward.

SPE _____ **ART UNIT** 2828

MINSUN OH HARN
PRIMARY EXAMINER

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 Mailed : Feb. 07, 2011

Patent No. : 7,366,217 B2
Patent Issued : Apr. 29, 2008
Docket No. : 15436.680
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s)1.322 .

The alleged error(s) numerous errors are present in the Certificate of Correction.Applicant should make appropriate corrections and resubmit the request..the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(571) 272-3435

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 83110

DATE : 08/31/10

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 11027745 Patent No.: 7361593

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ➢ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All changes appear to be good with the exception to the Title Page items 63 and 60. The application does not claim domestic priority to 10/689456. Additionally, there does not appear to be co-pendency. As to Item 60, 10/846210 is not a provisional application. These should only be indicated as Related Cases and not imply that they are in the same family.

/Matthew S. Smith/
SPE, Art Unit 2823

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,908,080	:	
Rowley et al.	:	DECISION ON
Issue Date: March 15, 2011	:	REQUEST FOR
Application No. 11/027,769	:	RECONSIDERATION OF
Filed: December 31, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-006001/	:	
GP-334-00-US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed May 13, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and thirty-five (235) days to three hundred and eighty-eight (388) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 15, 2011, the above-identified application matured into US Patent No. 7,908,080 with a patent term adjustment of 235 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 maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 415 days.

The period of adjustment of 262 days of examination delay is not in dispute.

The period of reduction of 289 days of Applicant delay is not in dispute.

The 0-day period of overlap between the examination delay and the B-delay is not in dispute.

The sole item that is in dispute is the effect of the RCE-cutoff on B-delay. **The Office maintains that the entire 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**, and the over three-year period begins on January 1, 2008 and ends on September 18, 2008, the day before the first RCE was filed, which amounts to 262 (not 415) days. See U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 235, not 388 days.

Patentee argues that the 153-day period between the mailing of the notice of allowance on October 14, 2010 and the issuance of the patent on March 15, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued examination of the application." As such, Patentee argues that the over three period begins on January 1, 2008 (the day after the three-year anniversary of the filing of the application), pauses on September 18, 2008 (the day before the filing of the first RCE), restarts on October 14, 2010 with the mailing of the notice of allowance, and ends on March 15, 2011 with the issuance of the patent.

The Office holds that the entire period between the filing of the RCE on September 19, 2008 and the issuance of the patent on March 15, 2011 is not included in the over three-year period.

37 C.F.R. § 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 (emphasis added);

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 the entire period between the filing of the RCE and the date on which the patent issued is not included in the B-delay, pursuant to 37 C.F.R. § 1.703(b)(1), reproduced above. Put another way, the over three-year period, once cut off by the filing of an RCE, does not restart upon the mailing of a notice of allowance.

Accordingly, at issuance, the Office properly entered 262 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 235 days:

	262 days of examination delay
+	262 days attributable to the Office taking in excess of 3 years to issue the patent
–	0 days of overlap
–	289 days of Applicant delay.

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required.

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

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,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

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[1] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[2] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[3] (571) 273-8300: please note this is a central facsimile number.
[4] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[5]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[5] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,908,080	:	
Rowley et al.	:	DECISION ON RENEWED
Issue Date: March 15, 2011	:	REQUEST FOR
Application No. 11/027,769	:	RECONSIDERATION OF
Filed: December 31, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-006001/	:	
GP-334-00-US	:	

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 5, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and thirty-five (235) days to three hundred and eighty-eight (388) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 15, 2011, the above-identified application matured into US Patent No. 7,908,080 with a patent term adjustment of 235 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).

An "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" was filed on May 13, 2011 along with the $200.00 fee set forth in 37 CFR 1.18(e), requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and thirty-five (235) days to three hundred and eighty-eight (388) days. The original petition was dismissed via the mailing of a decision on June 6, 2011.

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 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

The sole item that is in dispute with this renewed petition is the effect of the RCE-cutoff on B-delay: at issue is the period not included in the B-delay for "any time consumed by continued examination of the application requested by the applicant under section 132(b)." See U.S.C. 154(b)(1)(B)(i). **The Office maintains that the entire 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. As such, the over three-year period begins on January 1, 2008 and ends on September 18, 2008, the day before the first RCE was filed, which amounts to 262 (not 415) days.

Patentee argues that the 153-day period between the mailing of the notice of allowance on October 14, 2010 and the issuance of the patent on March 15, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued examination of the application."[1] As such, Patentee argues that the over three-year period begins on January 1, 2008 (the day after the three-year anniversary of the filing of the application), pauses on September 18, 2008 (the day before the filing of the first RCE), restarts on October 14, 2010 with the mailing of the notice of allowance, and ends on March 15, 2011 with the issuance of the patent.

Patentee's argument has been considered, but not found persuasive. Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

[1] Renewed petition, page 2.

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"[2] 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

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[2] Id.

under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[3]. 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

[3] 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.

consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether

it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (*i.e.*, until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[4] 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,

[4] 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 lieu of, the filing of a continuing application under 37 CFR 1.53(b).

Accordingly, at issuance, the Office properly entered 262 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 235 days:

	262 days of examination delay
+	262 days attributable to the Office taking in excess of 3 years to issue the patent
–	0 days of overlap
–	289 days of applicant delay.

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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[5]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[5] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent No. 7,908,080	:	
Rowley et al.	:	DECISION ON
Issue Date: March 15, 2011	:	REQUEST FOR
Application No. 11/027,769	:	RECONSIDERATION OF
Filed: December 31, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-006001/	:	
GP-334-00-US	:	

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" (second renewed petition), filed October 5, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from two hundred and thirty-five (235) days to three hundred and eighty-eight (388) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 235 days.

On March 15, 2011, the above-identified application matured into US Patent No. 7,908,080 with a patent term adjustment of 235 days.

On May 13, 2011, a petition under 37 C.F.R. § 1.705(d) was filed requesting that patent term adjustment be reflected as three hundred and eighty-eight (388) days.

By decision mailed June 6, 2011, the request for reconsideration was dismissed. The decision indicated that Patentees are entitled to a patent term adjustment of 235 days, and therefore, no adjustment to the patent term will be made.

On July 5, 2011, a renewed petition under 37 C.F.R. § 1.705(d) was filed requesting that patent term adjustment be reflected as three hundred and eighty-eight (388) days.

By decision mailed August 5, 2011, the renewed petition was dismissed. The decision indicated that Patentees are entitled to a patent term adjustment of 235 days, and therefore, no adjustment to the patent term will be made.

On October 5, 2011, this request for reconsideration of the decision on the renewed petition was filed.

By the instant petition, Patentees again dispute the calculation of the "B" delay period of the patent term adjustment. Specifically, Patentees state:

> "Patentees submit that B Delay accumulated for a total of 1,170 days, beginning on January 1, 2008 (the day after the date that is three years after the date on which the application was filed), and ending March 15, 2011 (the date the patent was issued). The Office has excluded from B Delay the number of days corresponding to the period beginning on September 19, 2008 (the date on which a Request for Continued Examination was filed) and ending on March 15, 2011 (the date the patent was issued). However, this entire period should not be excluded from B delay because it does not correspond exactly to continued examination. The Examiner's mailing of a Notice of Allowance Action on October 14, 2010, closed examination of the application on that date. Section 154(b)(1)(B)(i) of Title 35 excludes from B Delay "time consumed by continued examination of the application." The statute does not provide for exclusion from B Delay of time from the mailing of a Notice of Allowance until issuance (a period during which continued examination did not occur."
>
> Second renewed petition, pages 1-2.

RELEVANT STATUTE AND REGULATIONS

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
> (1) PATENT TERM GUARANTEES. –
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —

(i) 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 —

(I) the date on which an application was filed under section 111(a) of this title; or

(II) the date on which an international application fulfilled the requirements of section 371 of this title;

(ii) 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;

(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(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.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 C.F.R. § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision

by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(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:[2]

In pertinent part, 37 C.F.R. § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

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[2] (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.

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed 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;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(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:[3]

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[3] (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

37 C.F.R. 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

Patentees' argument has again been considered, but is not persuasive. 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

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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.

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).[4] 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. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 C.F.R. 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C.

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[4] Pursuant to 35 U.S.C. 132(b), 37 C.F.R. 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.

132(b) and C.F.R. 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the 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(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).[5] Clause (i) specifies "any time consumed by

[5] 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

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 C.F.R. 1.53(b) or a continued prosecution application (CPA) under 37 C.F.R. 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed

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the patent term reduced for applicant delay in taking in excess of three months to respond.

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 C.F.R. 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 C.F.R. 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 C.F.R. 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 C.F.R. 1.97(d). In addition, 37 C.F.R. 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[6] permit the filing of a request for continued examination under 37 C.F.R. 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 C.F.R. 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the 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 C.F.R. 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay

[6] 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.

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 C.F.R. 1.53(b).

In this instance, a request for continued examination was filed on September 19, 2008, and the patent issued by virtue of that request on March 15, 2011. Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), the period beginning on September 19, 2008 and ending on March 15, 2011 is not included in calculating Office delay. In view thereof, it is concluded that the patent term adjustment of 235 days is correct.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied.

The Office acknowledges that Patentees previously submitted the $200 fee set forth in § 1.18(e) on application for patent term adjustment filed June 6, 2011. As this request pertains only to the over 3-year delay issue raised in the application for patent term adjustment, no additional fees are required.

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required.

Telephone inquiries regarding this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[7]

Anthony Knight
Director
Office of Petitions

[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.

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.
11/027,823	12/29/2004	Robert P. Morris	1298/US	5937

49278 7590 02/10/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
VU, TUAN A

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
02/10/2011	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 10 2011

TECHNOLOGY CENTER 2100

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John A. Demos
2011
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

February 10, 2011,

In re Application of:
Robert P. MORRIS
Appl. No.: 11/027,823

Filed: December 29, 2004
For: METHOD AND SYSTEM FOR ALLOWING A USER TO CREATE ACTIONS TO BE TAKEN BY A SERVER

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on November 2, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

July 7, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/027,823

Filed: December 29, 2004
For: METHOD AND SYSTEM FOR ALLOWING A USER TO CREATE ACTIONS TO BE TAKEN BY A SERVER

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 16, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on May 16, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/027,823	12/29/2004	Robert P. Morris	1298/US	5937

49278 7590 12/14/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
VU, TUAN A

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
12/14/2011	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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John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

December 12, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/027,823

Filed: December 29, 2004
For: METHOD AND SYSTEM FOR ALLOWING A USER TO CREATE ACTIONS TO BE TAKEN BY A SERVER

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 11, 2011.

The petition is **GRANTED and the application identified above is suspended for three (3) months from the mailing date of this letter**.

Pursuant to applicant's request filed on May 16, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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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.
11/027,823	12/29/2004	Robert P. Morris	I298/US	5937

49278 7590 03/22/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
VU, TUAN A

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
03/22/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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John Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/027,823 Filed: December 29, 2004 For: METHOD AND SYSTEM FOR ALLOWING A USER TO CREATE ACTIONS TO BE TAKEN BY A SERVER	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED
JAN 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Nimrod Diamant	:	DECISION ON PETITION
Application No. 11/027,917	:	TO WITHDRAW
Filed: December 30, 2004	:	FROM RECORD
Attorney Docket No. P20316	:	

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 8, 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 Schwegman, Lundberg & Woessner, P.A. 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 Schwegman, Lundberg & Woessner, P.A. not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed October 29, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
JANSSEN, Holger	:	
Application No. 11/027,942	:	DECISION ON PETITION
Filed: January 04, 2005	:	TO WITHDRAW
Attorney Docket No. **VTX0323-US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

Therefore, as there is currently no statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request for Withdrawal.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **VTECH COMMUNICATIONS LIMITED**
23/F TAI PING INDUSTRIAL CENTRE
BLOCK 1, 57 TING KOK ROAD
TAI PO, N.T., HONG KONG

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)
7273595	2007-09-25	11027972	2004-12-30	FT P3053 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	/Thaddius J. Carvis/	Date (YYYY-MM-DD)	2012-02-16
Name	Thaddius J. Casrvis	Registration Number	26110

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. 7273595
Issue Date: September 25,2007
Application No. 11027972
Filed: December 30,2004
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 16,2012 ,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 16,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of
Robert J. Marshall

Application No. 11028272

Filed: January 3,2005

Attorney Docket No. PRL-101-CIP

: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 17-NOV-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Anderson et al. :
Application No. 11/028,465 :
Filed: January 3, 2005 :
Attorney Docket No.: 2011-2 :
Title: SYSTEMS, METHODS, :
SOFTWARE AND INTERFACES FOR : DECISION ON PETITION
INTEGRATION OF CASE LAW WITH : PURSUANT TO
LEGAL BRIEFS, LITIGATION : 37 C.F.R. § 1.137(B)
DOCUMENTS, AND/OR OTHER :
LITIGATION-SUPPORT DOCUMENTS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed on July 13, 2010.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed September 8, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on December 9, 2008. A notice of abandonment was mailed on April 30, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed a Request for Continued Examination (RCE) along with the required fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on July 13, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7224222
Issue Date: May 29,2007
Application No. 11028496
Filed: January 3,2005
Attorney Docket No. 2055.024

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

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)
7,224,222	2007-05-29	11/028,496	2005-01-03	2055.024

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2011-09-13
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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SCOTT A. HORSTEMEYER
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
SUITE 1750
100 GALLERIA PARKWAY
ATLANTA, GA 30339

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,280,975 :
Issue Date: October 9, 2007 :
Application No. 11/028,827 : NOTICE
Filed: January 5, 2005 :
Attorney Docket No. 051327-1030 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-37073	Patent Number: 7,668,251
Filing Date (or 371(b) or (f) Date): 01-04-2005	Issue Date: 02/23/2010
First Named Inventor: David P. Magee	
Title: SCALABLE POST-CHANNEL ESTIMATE PHASE CORRECTOR, METHOD OF CORRECTION AND MIMO COMMUNICATION SYSTEM EMPOLYING THE CORRECTOR AND METHOD	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/17/2010

Applicant	: David P. Magee	: DECISION ON REQUEST FOR
Patent Number	: 7668251	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/028,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1355** 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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P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Murali Narasimha	:	
Application No. 11/028,871	:	DECISION ON PETITION
Filed: January 4, 2005	:	
Attorney Docket No. CS24240RL	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 1, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 1, 2011. Accordingly, the date of abandonment of this application is September 2, 2011. The Notice of Abandonment was mailed September 13, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,594,389	:	DECISION
KESCH et al.	:	DISMISSING REQUEST FOR
Issue Date: 09/29/2009	:	RECONSIDERATION OF PATENT
Application No. 11/029,240	:	TERM ADJUSTMENT
Filed: 01/03/2005	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 10191/4044	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN RESPONSE TO DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH 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 one hundred ninety-eight (198) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b). Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Patentee incorrectly calculated the period consumed by appellate review. 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).

Pursuant to 37 CFR 1.703:

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> > (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

In this instance, the period consumed by appellate review is 827 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, December 21, 2006, and ending on the date of the last decision by the Board of Patent Appeals and Interferences, March 26, 2009. Thus, B delay is 0 days.

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

MAILED

OCT 22 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Jonathan Cvetko
Application No. 11/029,312
Filed: January 5, 2005
Attorney Docket No.: **CVETJ-84516**

This is a decision on the petition filed September 23, 2010 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement mailed April 20, 2009 set the longer of one month or thirty days as the period for reply. However, in response thereof, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed September 4, 2009 which set a one month period for reply. No reply or extensions of time having been requested, this application became abandoned October 6, 2009. Accordingly, a Notice of Abandonment was mailed March 30, 2010.

The petition fee in the amount of $810.00 has been charged to deposit account no. 06-2425.

The response filed September 23, 2010 will be referred to Technology Center 2836 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
NOV 29 2010
OFFICE OF PETITIONS

In re Application of :
Kim :
Application No. 11/029,568 :
Filed: January 6, 2005 :
Attorney Docket No.: 1793.1599 :
Title: STORAGE MEDIUM STORING :
MULTIMEDIA DATA, AND METHOD AND :
APPARATUS FOR REPRODUCING :
MULTIMEDIA DATA :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.181(A)

This is a decision on the petition filed September 16, 2010, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 23, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 24, 2010. A notice of abandonment was mailed on July 30, 2010.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application

number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has stated that the Office action was not received at the correspondence address of record,[1] and has provided a copy of the master docket for the relevant time period[2] and a copy of the docket report that is associated with this particular application.[3]

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1 Petition, page 1.
2 Berry Declaration, paragraph 4. See also the attachment entitled "PTO Mail Received."
3 Berry Declaration, paragraph 4. See also the attachment entitled "Patent Data."

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

First, it is not clear if a search of the practitioner's record(s) was performed, including any file jacket or the equivalent, and the application contents. The petition makes a passing reference to a search on the first page of the same, however the Berry declaration of facts does not explicitly mention any search that might have been performed.

Second, the statement that Petitioner has included describing the system used for recording an Office action received at the correspondence address of record with the USPTO is insufficient to either describe the docketing system or establish the reliability of the same. Petitioner has established that incoming mail is opened, date-stamped, "separated into a specific file," delivered to the manager of the law firm's Docketing Department, and a response-date is docketed in the law firm's docketing database if appropriate.[4] It is not clear how this docketing system serves to apprise members of the law firm that a response date is coming due. The record suggests, but does not explicitly state, that the docketing system sends daily e-mails which contain a listing of matters which must be attended to on that date.[5] On renewed petition, this matter should be further developed, and it should be indicated to whom these e-mails are sent.[6]

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile.[9] Registered

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4 Berry declaration of facts, paragraph 3.
5 Berry declaration of facts, paragraph 4 and the two attachments which consist of print-outs of e-mails.
6 It is noted that each of these e-mails was sent to the groups entitled "Attorneys" and "Secretaries."
7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

Statements based on hearsay will not normally be accepted.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
9 (571) 273-8300: please note this is a central facsimile number.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Kim	:	
Application No. 11/029,568	:	
Filed: January 6, 2005	:	
Attorney Docket No.: 1793.1599	:	
Title: STORAGE MEDIUM STORING MULTIMEDIA DATA, AND METHOD AND APPARATUS FOR REPRODUCING MULTIMEDIA DATA	:	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the renewed petition filed January 26, 2011, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 23, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 24, 2010. A notice of abandonment was mailed on July 30, 2010.

PROCEDURAL HISTORY AND ANALYSIS

An original petition was filed on September 16, 2010, where it was stated that the Office action was not received at the correspondence address of record,[1] and both a copy of the master docket for the relevant time period[2] and a copy of the docket report that is associated with this particular application were provided.[3] The original petition was dismissed via the mailing of a decision on November 29, 2010.

With this renewed petition, Petitioner has affirmatively stated that a search of the practitioner's records was performed, including the physical file jacket and the application contents, and that "there is no evidence that the subject Office action was ever received."[4] Petitioner has further explained the manner in which the docketing system is used to send daily e-mails which contain a listing of matters which must be attended to.[5]

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the non-final Office action of December 23, 2009 was not received.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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 re-mail the non-final Office action of December 23, 2009, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that

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1 Original petition, page 1.
2 Berry Declaration provided with the original petiiton, paragraph 4. See also the concurrently submitted attachment entitled "PTO Mail Received."
3 Berry Declaration provided with the original petition, paragraph 4. See also the concurrently submitted attachment entitled "Patent Data."
4 Renewed petition, page 2.
5 Id. at 3-4.

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.[6] 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

---

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 of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 28 2010

OFFICE OF PETITIONS

MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of	:	
Bell et al.	:	
Application No. 11/029,865	:	ON PETITION
Filed: January 5, 2005	:	
Attorney Docket No. OQO-6047	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 22, 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 1.197(b). As no claim was allowed, the application became abandoned by operation of law on February 23, 2009. A Notice of Abandonment was mailed May 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application number 12/868,149.

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

OGILVY RENAULT LLP
1, PLACE VILLE MARIE
SUITE 2500
MONTREAL QC H3B 1R1 CA CANADA

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Matthew BELLS, et al	:	
Application No. 11/030,122	:	DECISION ON PETITION
Filed: January 7, 2005	:	
Attorney Docket No. 05200204-280US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2010, 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 22, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 22, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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 the Office of Data Management for processing.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: MICHAEL VAN EESBEEK
OGILVY RENAULT LLP
200 BAY STREET, SUITE 3800
TORONTO, ONTARIO, M5J 2Z4

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/08/11

TO SPE OF : ART UNIT 2163

SUBJECT : Request for Certificate of Correction for Appl. No.: 11030303 Patent No.: 7877405

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
[redacted]

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
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

SPE Art Unit

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,877,405

APPLICATION NO.: 11/030,303

ISSUE DATE : January 25, 2011

INVENTOR(S) : Kothuri , et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 8, line 3, in Claim 2, delete "mad" and insert - - and - -, therefor. HV approve

In column 8, line 60, after "metadata" delete "are wherein". HV approve

10/03/11

Hung vy 2163

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Oracle Corporation
Legal (M/S 5op7)
500 Oracle Parkway
Redwood Shores, CA 94065

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kothuri , et al. Patent No.: 7,877,405 Issued: January 25, 2011	Application No.: 11/030,303 Attorney Docket No.: OID- **REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323**

Commissioner for Patents
Office of Patent Publications
Attn: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR § 1.323, Applicant submits a Certificate of Correction correcting clerical errors or mistakes minor in character in the printed patent. The desired correction is set forth on the enclosed form PTO/SB/44.

These corrections do not involve changes, which would (1) constitute new matter or (2) require reexamination. *In re Arnott*, 19 USPQ 2d 1049, 1052 (Comm'r Pat. 1991).

The errors sought to be corrected were made by:

the Patent and Trademark Office. Thus, no fee is required for the Certificate of Correction pursuant to 37 CFR §1.322.

☐ Applicant(s) (at least in part). The requisite fee, as set forth in § 1.20(a), is sought to be paid electronically. However, the Commissioner is authorized to change any underpayments, or credit any overpayment to, our Deposit Account 20-0674.

Please direct all inquiries concerning this request to the undersigned representative at telephone number 443.552.7281 (4AM-Noon EST, preferably, else voicemail).

Respectfully submitted,
/Narendra R Thappeta/
Printed Name: Narendra R Thappeta
Attorney for Applicant
Registration Number: 41,416
Date: August 25, 2011

Oracle Corporation
Legal (M/S 5op7)
500 Oracle Parkway
Redwood Shores, CA 94065

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Anderson, Ian P.	:	
Application No. 11/030,373	:	ON PETITION
Filed: January 5, 2005	:	
Attorney Docket No. INSG0021	:	

This is a notice regarding your request, May 3, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
SEP 14 2011
OFFICE OF PETITIONS

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

In re Application of	:	
Alan Walker	:	
Application No. 11/030,463	:	DECISION ON PETITION
Filed: January 6, 2005	:	
Attorney Docket No. 023895/281686	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance (37 C.F.R. § 1.705)," filed June 30, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(b) requesting the initial paten term adjustment determination be correct from seven hundred thirty-three (733) days to eight hundred forty-two (842) days.

The request is **granted**.

The Office has updated the Office's PALM system to reflect that the correct patent term adjustment determination at the time of the mailing of the Notice of Allowance is 842 days. A copy of an updated PALM screen showing the correct determination is enclosed.

Background

The Office mailed a non-final Office action on June 1, 2009.

The Office did not receive a response to the June 1, 2009 Office action. As a result, the Office mailed a Notice of Abandonment on December 18, 2009.

A petition to withdraw the holding of abandonment was filed February 4, 2010.

A decision dismissing the petition was mailed May 20, 2010.

A renewed petition to withdraw the holding of abandonment was filed June 7, 2010.

A decision granting the renewed petition was mailed June 29, 2010.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on April 14, 2011, advising Applicant of a patent term adjustment to date of 733 days. The 733-day determination included a 109-day reduction under 37 C.F.R. § 1.704(c)(4).

The instant petition was timely filed with the issue fee on June 30, 2011. The petition argues the Office's entry of the 109-day reduction in patent term adjustment was improper.

Discussion

The Office has determined, based on the specific facts in this case, that entry of a 109-day reduction in patent term adjustment was unwarranted.

The correct patent term adjustment determination, as of the date of mailing of the Notice of Allowance, is 842 (733 + 109) days.

The required $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 16-0605 pursuant to the general fee authorization set forth on the issue fee transmittal sheet.

Applicants is reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

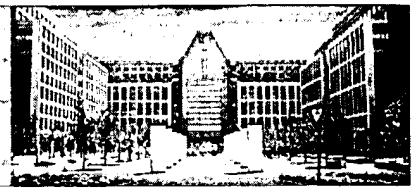
The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11030463 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11030463

Application Filing Date	01/06/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	842
A Delays	842	PTO Manual Adjustment	109
B Delays	0	Applicant Delay (APPL)	109
C Delays	0	Total PTA (days)	842

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
74	09/13/2011		P028	Adjustment of PTA Calculation by PTO	109		0
66	04/14/2011		MN/=.	Mail Notice of Allowance			0
65	04/12/2011		IREV	Issue Revision Completed			0
64	04/12/2011		DVER	Document Verification			0
63	04/11/2011		N/=.	Notice of Allowance Data Verification Completed			0
62	04/11/2011		EX.A	Examiner's Amendment Communication			0
61	04/11/2011		CNTA	Allowability Notice			0
58	03/31/2011		FWDX	Date Forwarded to Examiner			0
57	03/21/2011		A.NE	Amendment after Final Rejection			0
56	12/22/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
55	12/20/2010		CTFR	Final Rejection			0
53	10/05/2010		FWDX	Date Forwarded to Examiner			0
52	10/04/2010		A...	Response after Non-Final Action			0
51	07/13/2010		MNRES	Mail Notice of Restarted Response Period			0
49	07/13/2010		MNRAB	Mail Notice of Rescinded Abandonment			0
50	07/12/2010		NRES	Letter Restarting Period for Response (i.e. Letter re: References)			0
48	07/12/2010		NRAB	Notice of Rescinded Abandonment in TCs			0
47	06/29/2010		MPREV	Mail-Petition to Revive Application - Granted			0
46	06/29/2010		PREV	Petition to Revive Application - Granted			0
54	06/22/2010		IDSC	Information Disclosure Statement considered			0
45	06/22/2010		M844	Information Disclosure Statement (IDS) Filed			0
44	06/22/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
43	06/07/2010	02/19/2010	PET.	Petition Entered		109	39
42	05/20/2010		MPTDI	Mail-Petition Decision - Dismissed			0
41	05/20/2010		PTDI	Petition Decision - Dismissed			0
40	02/04/2010		PET.	Petition Entered			0
39	12/18/2009		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
38	12/17/2009		ABN2	Aband. for Failure to Respond to O. A.			0
37	06/09/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
35	06/01/2009		MCTNF	Mail Non-Final Rejection			0
34	05/27/2009		CTNF	Non-Final Rejection			0
36	05/22/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
33	03/13/2009		FWDX	Date Forwarded to Examiner			0
31	03/13/2009		FWDX	Date Forwarded to Examiner			0
29	03/13/2009		ABN9	Disposal for a RCE / CPA / R129			0
32	03/10/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
30	03/10/2009		RCEX	Request for Continued Examination (RCE)			0
28	03/10/2009		BRCE	Workflow - Request for RCE - Begin			0
27	12/11/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
26	12/08/2008		CTFR	Final Rejection			0
21	09/25/2008		FWDX	Date Forwarded to Examiner			0
20	09/17/2008		A...	Response after Non-Final Action			0
25	08/08/2008		IDSC	Information Disclosure Statement considered			0
24	08/08/2008		IDSC	Information Disclosure Statement considered			0
23	08/08/2008		RCAP	Reference capture on IDS			0
22	08/08/2008		M844	Information Disclosure Statement (IDS) Filed			0
18	08/08/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
17	06/25/2008	03/06/2006	MCTNF	Mail Non-Final Rejection	842		0.5
16	06/23/2008		CTNF	Non-Final Rejection			0
15	06/13/2008		C.AD	Correspondence Address Change			0
13	10/17/2007		W525	Withdraw Flagged for 5/25			0
12	10/15/2007		F525	Flagged for 5/25			0
11	03/06/2006		DOCK	Case Docketed to Examiner in GAU			0
10	03/02/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
9	03/02/2006		DOCK	Case Docketed to Examiner in GAU			0

8	05/13/2005	OIPE	Application Dispatched from OIPE	0
7	05/13/2005	COMP	Application Is Now Complete	0
6	04/28/2005	ADDFLFEE	Additional Application Filing Fees	0
5	04/28/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
4	02/24/2005	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	02/09/2005	L194	Cleared by OIPE CSR	0
2	02/05/2005	SCAN	IFW Scan & PACR Auto Security Review	0
1	01/06/2005	IEXX	Initial Exam Team nn	0
0.5	01/06/2005	EFILE	Filing date	0

Export to: Excel

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ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,898,721 :
Issue Date: March 1, 2011 :
Application No. 11/030,526 : ON PETITION
Filed: January 6, 2005 :
Attorney Docket No. 32456-US-PA :

This is a decision on the petition filed April 14, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the second name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are not permitted. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(i)

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Petitioner has failed to provide (B). Petitioner has requested that the second assignee "QUALCOMM MEMS TECHNOLOGIES, INC., IRVINE, CA (US)" be added to the front page of the patent. However a review of the record shows that the certificate of correction provided does not match the assignment records. The records show "QUALCOMM MEMS TECHNOLOGIES, INC., **SAN DIEGO**, CA (US)".

As such if petitioner would like to add the second assignee, a new certificate of correction referencing San Diego and not Irvine must be submitted.

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Further correspondence with respect to this matter may be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : July 29, 2011

Patent No. :7898721
Ser. No. :11030526
Inventor(s) : Feng-Yuan Gan et al.
Issued :March 1, 2011
Title :METHOD AND DEVICE FOR ADJUSTING DRIVING VOLTAGE OF
:MICROELECTROMECHANICAL OPICAL DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. the processing fee set forth in 37 CFR 1. 17(i) (currently $130);
B. **a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer) Support 1-866-217-9197 571-272-4100

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at 571-272-9005.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

Jianq Chyun IP Office
7f.-1, No.100, Roosevelt Rd., Sec. 2,
Taipei 100,
Taiwan, R.O.C.

/arg

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7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,898,721 :
Issue Date: March 1, 2011 :
Application No. 11/030,526 :
Filed: January 6, 2005 :
Attorney Docket No. 32456-US-PA :

ON PETITION

This is a decision on the renewed petition filed July 21, 2011 and supplemented on September 9, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the second name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
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 (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: 884.D98US1 (P20822)	Patent Number: 7,664,037
Filing Date (or 371(b) or (f) Date): 01-04-2005	Issue Date: 02-16-2010
First Named Inventor: W. Steven Conner	
Title: MULTICHANNEL MESH NETWORK, MULTICHANNEL MESH ROUTER AND METHODS FOR ROUTING USING BOTTLENECK CHANNEL IDENTIFIERS	

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 /Alan Pedersen-Giles/	Date 07-08-2010
Name (Print/Typed) Alan Pedersen-Giles	Registration Number 39,996

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

✓ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 08/13/2010

Applicant	: W. Steven Conner	: DECISION ON REQUEST FOR
Patent Number	: 7664037	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/030,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1427** 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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PERKINS COIE LLP
PO BOX 1247
SEATTLE WA 98111-1247

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,224,463	:	
Issued: May 29, 2007	:	
Application No. 11/030,596	:	NOTICE
Filed: January 5, 2005	:	
Attorney Docket No. 09062-8048.US01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 23, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed: October 12, 2010
Patent No. : 7,538,207 B2
Ser. No. :11/030635
Issued May 26, 2009
Inventor(s) Rino Rappuoll, et al.
Title POLYEPITOPE CARRIER PROTEIN

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

Novartis Vaccines & Diagnostics, Inc.
4560 Horton Street, M/S 100B
Emeryville, CA 94608-2916

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-27-2010

TO SPE OF : ART UNIT _____

SUBJECT : Request for Certificate of Correction for Appl. No.: 11030733 Patent No.: 7245370

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

Eva James
Certificates of Correction Branch
703-756-1583 _____

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

/Gregory J Toatley Jr — **SPE**

2877 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Weaver Austin Villeneuve &
Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Autumn et al. :
Application No. 11/030,752 :
Filed: January 5, 2005 :
Attorney Docket No. LEWIP002 :
Title: SELF-CLEANING ADHESIVE :
STRUCTURE AND METHODS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. §1.705(d)" filed March 18, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred sixty-eight (1,168) days, not six hundred one (601) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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.
11/031,485	01/07/2005	Nicholas Pullen	000659-0055-101	1229

1473 7590 04/05/2012
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

EXAMINER
SCHWADRON, RONALD B

ART UNIT	PAPER NUMBER
1644	

NOTIFICATION DATE	DELIVERY MODE
04/05/2012	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):

USPatentMail@ropesgray.com
USPatentMail2@ropesgray.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

APR 0 5 2012

Alla Brukman
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Application of	:
Pullen et al	:
Serial No.: 11/031,485	:Decision on Petition
Filed : 7 January 2005	:
Attorney Docket No.: 000659-0055-101	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 28 March 2012 requesting reconsideration of the restriction requirement mailed 13 November 2008. No fee is required for this type of petition.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to re-consideration under restriction practice described in MPEP Chapter 800.

On 5 July 2007, the examiner set forth a first restriction requirement which divided the claims into four groups. An election of species was also required.

> I. Claims 1-15,36,42,43 are drawn to antibodies/hybridomas/antibody fragments, classified in Class 530, subclass 388.15 and Class 435, subclass 325.
> II. Claim 34 is drawn to methods of treatment using multinucleic acid compositions classified in Class 514, subclass 42.
> III. Claims 35 is drawn to a method of making an antibody, classified in Class 435 , subclass 69.6.
> IV. Claims 51-53 is drawn to a method of in vivo evaluation, classified in Class 424, subclass 9.2.

On 5 October 2007, applicants elected Group I, and the antibody species 7.16.16, without traverse.

On 2 January 2008, the examiner mailed to applicants a first non-final Office action. Claims 24-33 were objected to for being in an improper dependent format. Claims 19-23, 34, 35, 37-41, 44, 45 and 51-53 were withdrawn from consideration as being directed to non-elected invention. Claim 36 was rejected under 35 U.S.C. 101 as being identical to Claim 36 of co-pending application 11/484,247. Claims 2-11, 14-18, 36, 42, 46-48 were provisionally rejected under the grounds of non-statutory double patenting as being unpatentable over claims 1-18, 24-26, 42-43 and 46-50 of copending application 11/484,247. Claims 4-7, 9-11, 14-18, 42, 46-48 were rejected under 35 U.S.C. 112, first paragraph for lack of enablement. Claims 36 and 42 were rejected under 35 U.S.C. 102(a) as being anticipated by Brettman. Claims 2, 3, 7, 16-18, 36, 42, 46-48 were rejected under 35 U.S.C. 103(a) as being unpatentable over Brettman in view of Kucherlapati.

On 2 April 2008, applicants filed a response, which the examiner found non-responsive on 29 July 2008 for failing to address the provisional non-statutory double patenting rejection. See the first miscellaneous communication.

On 5 September 2008, an interview summary with applicants indicated that the instant application was the earlier filed, that the later filed application was under a restriction requirement and may have claims to a different invention under examination.

On 13 November 2008, the examiner set forth a second restriction requiring that applicants elect
(A) an antigen binding fragment or an intact antibody and
(B) an antibody of claim 59, 60 or 61.

On 13 January 2009, applicants filed a response, thanking the examiner for telephonic discussions on December 9 and 17, 2008 to clarify the species election requirement. (It is noted that examiner-prepared interview summaries of these discussions cannot be found in the file.) Applicant elected the intact antibody and the antibody of claim 59, with traverse.

On 1 April 2009, the examiner prepared a first notice of non-compliant or non-responsive amendment indicating that claims 63/65 should be indicated as withdrawn. The examiner further indicated that "Withdrawn" with boldface type and underlined is not proper status indicator.

On 13 August 2009, the examiner prepared a second notice of non-compliant or non-responsive amendment indicating that the drawing filed 17 June 2005 were not properly identified as 'annotated sheet.'

On 5 January 2010, the examiner prepared a second miscellaneous action and a first sequence disclosure notice stating that SEQ ID NO 134 lacks the n-terminal C residue per specification [0203]. It is noted that SEQ ID NO 134 is not listed in the claims nor had it been searched on the merits.

On 24 January 2011, the examiner prepared a third miscellaneous action and a second sequence disclosure notice stating that SEQ ID NO 134 should be listed as an artificial sequence because the Cys residue at position one is not found in the naturally occurring sequences. It is noted that the claims, as pending at the time of this action did not recite SEQ ID NO 134 nor had this sequence been searched on the merits.

On 21 April 2011, the examiner prepared a fourth miscellaneous action and a third sequence disclosure notice stating that SEQ ID NO 51-68 are drawn to modified antibody encoding nucleic acid sequences and amino acid sequences which should be listed as an artificial sequences. It is noted that the claims, as pending at the time of this action did not recite SEQ ID NO 51-68 nor had these sequences been searched on the merits.

On 28 December 2011, in the second non-final action on the merits, the examiner considered the election and traversal and made the requirement FINAL. It is not readily apparent which claims have been withdrawn from examination. The Continuation sheet of the PTOL-326 forms and the body of the Office action, shown below indicates differences with respect to the treatment of claims 19-23, 37-41, 44-45, 51-53, 213, and 225-237.

> Continuation of Disposition of Claims: Claims withdrawn from consideration are 2,5-11,14,16-23,37-42,44-46,51-58,60,61,63,65,67-70,72,74,76,78,79,81-96,98-101,103,105,107-213,215-218,220,222 and 224-237.

> 2. Claims 2,5-11,14,16-18,42,46,54-58,60,61,63,65,67-70,72,74,76,78,79,81-96,98-101,103,105,107,212,2123,215-218,220,222,224 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 1/13/09.

The PTOL-326 indicates that Claims 4, 15, 47, 48, 59, 62, 64, 66, 71, 73, 75, 77, 80, 97, 102, 104, 106, 214, 219, 221 and 223 are rejected.

Claim 4 was rejected under the grounds of non-statutory double patenting as being unpatentable over claims 15, 24, 41, 51 of US Patent 7,932,371. Claims 4, 15, 47, 48, 59, 62, 64, 66, 71, 73, 75, 77, 80, 97, 102, 104, 106, 214, 219, 221 and 223 were provisionally rejected under the grounds of non-statutory double patenting as being unpatentable over claims 2, 3, 7, 16, 18, 24, 25, 46-48 of copending application 11/894,559. Claims 15, 47, 48, 59, 62, 64, 66, 71, 73, 75, 77, 80, 97, 102, 104, 106, 214, 219, 221 and 223 were rejected under 35 U.S.C. 112, first paragraph for lack of adequate written description because the claimed antibodies encompass antibodies without a defined light chain.

On 28 March 2012, applicants filed a response to the Office action along with this petition.

DISCUSSION

The file history and petition have been considered carefully.

The petition requests reconsideration of the second restriction requirement. The petition points to MPEP 811 and indicates that claims which had already been examined on the merits are now withdrawn from further examination.

In the first Office action on the merits, mailed 2 January 2008, the examiner examined claims 2-11, 14-18, 35, 42 and 46-48 on the merits. Independent Claim 9, as pending for the first Office action is set forth below:

> 9. (Currently Amended) A monoclonal antibody or an antigen-binding portion thereof, wherein the heavy chain of said antibody ~~or portion thereof~~ comprises the heavy chain CDR1, CDR2 and CDR3 of monoclonal antibody 7.16.6 [[or]] and wherein the light chain comprises the light chain CDR1, CDR2 and CDR3 of [[a]] monoclonal antibody ~~selected from the group consisting of: 1.7.2, 1.8.2, 6.14.2, 6.22.2, 6.34.2, 6.67.1, 6.73.2, 6.77.1,~~ 7.16.6~~, 7.20.5, 7.26.4, 9.8.2, 6.22.2-mod, 6.34.2-mod, 6.67.1-mod, 6.77.1-mod and 7.26.4-mod~~.

In the second Office action mailed 28 December 2011, claims 2, 5-11, 14, 16-18, 42 and 46 were withdrawn from consideration. Independent Claim 9, as pending for the second Office action, set forth below, is directed to subject matter which had already been examined on the merits:

> 9. (Withdrawn – currently amended) A human monoclonal antibody or an antigen-binding portion thereof that specifically binds to MAdCAM, wherein said antibody comprises the heavy chain CDR1, CDR2 and CDR3 amino acid sequences of the monoclonal antibody produced by the hybridoma cell line 7.16.6 (ECACC Accession No. 03090909) and the light chain CDR1, CDR2 and CDR3 amino acid sequences of the monoclonal antibody ~~7.16.6~~ produced by the hybridoma cell line 7.16.6 (ECACC Accession No. 03090909).

Withdrawing already-examined Claim 9, for example, is not consistent with the guidance in MPEP 811.

> "Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required."

Here, given the fact that the examiner has already examined the product claims on the merits, the examiner cannot now establish the serious search burden which would be necessary to justify a second, mid-prosecution restriction requirement.

Next, the petition requests reconsideration for the requirement to elect either an antigen binding fragment or an intact antibody, citing MPEP 806.04(f) and (h). This request is persuasive. Because an antigen binding fragment is a portion of an antibody, the subject matter overlaps in scope and is not mutually exclusive. Moreover, Claims 16 and 17, directed to the antibody and its antigen binding fragment, respectively, were both examined on their merits in the first Office action.

> 16. (Currently Amended) The monoclonal antibody according to any one of claims 2, 3, 7, 9-11, 14, 15, and 42 ~~1-3 and 5-15~~ that is an immunoglobulin G (IgG), an IgM, an IgE, an [[and]] IgA or an IgD ~~molecule, a humanized antibody, a chimeric antibody or a bispecific antibody~~.
>
> 17. (Currently Amended) The antigen-binding portion according to any one of claims 2, 3, 5, 7-11, 14, 15, and 42 ~~1-3, 5-7 and 9-16~~ which is an Fab fragment, an $F(ab')_2$ fragment, an F_V fragment or a single chain antibody.

Withdrawing claim 17, for example, from examination was counter to MPEP 811.

The petition then requests reconsideration for the requirement to elect an antibody of Claims 59, 60 and 61, citing the fact that SEQ ID Nos 34 and 36 had already been searched on the merits by the examiner. This request is persuasive. A review of the file confirms that sequence searches for SEQ ID NOs 34 and 36 had been performed on 14 December 2011 and 29 December 2009. Moreover, on 2 January 2008, the examiner had considered Claim 15, which recited the limitations of SEQ ID No 34 and 36, on the merits.

Last, the petition requests reconsideration of the restriction required between antibodies described in terms of the nucleic acid sequences which encoded the antibody and antibodies described by the hybridoma which produced the antibody, stating, for example, that Claim 65 which is now withdrawn had already been searched and examined on the merits in the instant application.

Claim 65, which was withdrawn from examination, is comparable to Claim 15, relevant portions set forth below, which had been examined in the first Office action on the merits.

> 65. (Withdrawn) A human monoclonal antibody or an antigen-binding portion thereof that specifically binds to MAdCAM, wherein said antibody comprises the light chain amino acid sequence of the monoclonal antibody produced by the hybridoma cell line 7.16.6 (ECACC Accession No. 03090909).
>
> 15. (Currently Amended) A [[The]] monoclonal antibody or an antigen-binding portion thereof ~~according to claim 13~~, wherein said antibody comprises:

...

(b) a light chain comprising the light chain variable region amino acid sequence of [[an]] monoclonal antibody ~~selected from the group consisting of: 1.7.2 (SEQ ID NO: 4); 1.8.2 (SEQ ID NO: 8); 6.14.2 (SEQ ID NO: 12); 6.22.2 (SEQ ID NO: 16); 6.34.2 (SEQ ID NO: 20); 6.67.1 (SEQ ID NO: 24); 6.73.2 (SEQ ID NO: 28); 6.77.1 (SEQ ID NO: 32);~~ 7.16.6 (ECACC Accession No. 03090909) or in [[(]]SEQ ID NO: 36[[)]]; ~~7.20.5 (SEQ ID NO: 40); 7.26.4 (SEQ ID NO: 44); and 9.8.2 (SEQ ID NO: 48); 6.22.2 mod (SEQ ID NO: 54); 6.34.2 mod (SEQ ID NO: 58); 6.67.1 mod (SEQ ID NO: 62); 6.77.1 mod (SEQ ID NO: 66); and 7.26.4 mod (SEQ ID NO: 68);~~ or

...

Moreover, MPEP 806.03 prohibits restriction between claims defining the same essential features of a single embodiment:

> "Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition."

For these reasons, the product claims 2, 7-11, 14-17, 42, 47-48, 54-107, 212-224 will be examined together in the instant application.

Finally, it is noted that the prosecution history is inconsistent with the guidance in 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. The examiner then reviews all the evidence, including arguments and evidence responsive to any rejection, before issuing the next Office action....Although this part of the Manual explains the procedure in rejecting claims, the examiner should never overlook the importance of his or her role in allowing claims which properly define the invention."

It is noted that beginning 5 July 2007, the examiner has prepared two restriction requirements, three sequence letters and four miscellaneous notices. This has resulted in a nearly three year lapse between the first and second non-final Office action on the merits. Many of these notices concerned informalities raised in a piecemeal fashion which could have been more efficiently addressed in combination the next Office action of the merits. Some of these intervening actions were prepared after the 4 February 2010 Memorandum to the Patent Examining Corps, which is available at this link:

http://www.uspto.gov/patents/law/exam/noncompliant_20100204.pdf

In that memo, examiners were reminded to focus their efforts on decreasing the pendency of patent applications and to use their professional judgment to distinguish between minor errors that could be remedied by a quick phone call to the attorney and substantive ones which required corrective action prior to examination.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 28 March 2012 is **GRANTED**.

The restriction requirement mailed 13 November 2008 is withdrawn.

The Office action mailed 28 December 2011 is withdrawn as incomplete, for not addressing all the product claims on the merits.

The application will be forwarded to the examiner for consideration of the papers filed 28 March 2012 and for preparation of an Office action consistent with this petition decision which addresses product claims 2, 7-11, 14-17, 42, 47-48, 54-107 and 212-224 on the merits.

Withdrawn process claims 20-23, 52-53, 108-211 and 225-237 will be considered for rejoinder upon indication of allowability of the product claims, per MPEP 821.04(b).

In view of the extended prosecution history of this application, supervisory review and special action is warranted in accordance with MPEP 707.02.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/7/10

TO SPE OF : ART UNIT 1625 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/031,623 Patent No.: 7,176,218

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, LPE
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 /Janet L. Andres/ **ART UNIT** 1625

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MAILED
MAY 12 2011
OFFICE OF PETITIONS

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

In re Patent No. 7,702,611	:	
Issue Date: April 20, 2010	:	
Application No. 11/031,641	:	DECISION ON PETITION
Filed: January 7, 2005	:	
Attorney Docket No. 20041272-US-NP	:	

This is a decision on the Request Under 37 CFR §3.81(b), filed June 2, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Xerox Corporation, Norwalk, CT (US)"

to:

--Palo Alto Research Center, Palo Alto, CA (US)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

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. 7,702,611.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of :
Rumph et al. :
Application No. 11/031,661 : ON APPLICATION FOR
Filed: January 7, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. ZP186-05001 :

This is in response to the Request for Reconsideration of Patent Term Adjustment, 37 C.F.R. § 1.705, filed May 11, 2010[1]. This also responds to the Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b) and 35 U.S.C. § 154 filed June 28, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand two hundred fifty-three (1253) days, not eight hundred fifty-nine (859) 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.

However, preliminarily, it is noted that applicant also states that the period of adjustment pursuant to 37 CFR §§ 1.702(a)(1) and 1.703(a)(1) is 1,075 days. Applicant does not dispute that this application was filed on January 7, 2005 and the first Office action for purposes of calculating this delay was mailed October 15, 2008. The mailing date of this Office action is fourteen months and 953 days after the application filing date.

[1] Given the withdrawal of the application from issue by decision on petition to withdraw from issue mailed June 3, 2010, no decision would have been issued in response to this first petition. Rather such decision would have had to await issuance of a new notice of allowance and filing of a new timely application for PTA in response thereto. Prior to a dismissal being issued for those reasons, the patent issued and the application for PTA filed June 28, 2010 was referred to the undersigned for consideration on the merits.

Thus, the period of adjustment pursuant to 37 CFR §§ 1.702(a)(1) and 1.703(a)(1) was properly calculated as 953 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**.

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[2].

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).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[2] 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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Fox Rothschild, LLP
Blue Bell
997 Lenox Drive
Building 3
Lawrenceville, NJ 08648-2311

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,942,394	:	
Issue Date: May 17, 2011	:	
Application No. 11/031,761	:	DECISION ON PETITION
Filed: January 7, 2005	:	TO WITHDRAW FROM
Attorney Docket No. OVA-0003	:	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**.

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*).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ELLIOTT N. KRAMSKY
AT WARNER CENTER
5850 CANOGA AVENUE, SUITE 400
WOODLAND HILLS, CA 91367

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Richard I. Kertzner et al	:	
Application No. 11/031,840	:	DECISION ON PETITION
Filed: January 6, 2005	:	
Attorney Docket No. 269-103	:	

This is a decision on the petition, filed July 26, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 12, 2009, which set a three (3) month period for reply. One month (1) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before March 12, 2010.

Office record show a timely reply was received on March 16, 2010 (certificate of mailing March 12, 2010), which bears an incorrect application number; i.e. 11/031,480 rather than 11/031,840. This reply includes the Notice of Appeal; Pre-Appeal Request for Review; one (1) month extension of time; and a check in the amount of $335. Petitioner has submitted a copy of the previously mailed correspondence, which is being transferred to the correct application.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of November 12, 2009 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3775 for appropriate action in the normal course of business on the reply received March 16, 2010.

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/031,853	01/06/2005	Heath Stewart	I029-P07190US	1106

33356 7590 02/03/2011
SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

EXAMINER
AUVE, GLENN ALLEN

ART UNIT	PAPER NUMBER
2111	

NOTIFICATION DATE	DELIVERY MODE
02/03/2011	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):

USPTO@socalip.com

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United States Patent and Trademark Office
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www.uspto.go

SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD.
SUITE 120
WESTLAKE VILLAGE, CA 91362

MAILED

FEB 02 2011

Technology Center 2100

In re U.S. Patent of:	)	
STEWART, et al.	)	
Application No. 11/031,853	)	**NOTIFICATION OF PRIOR ART**
Filed: January 06, 2005	)	**CITATION UNDER 37 C.F.R. § 1.501**
U.S. Patent No. 7,421,532	)	
Issued: September 02, 2008	)	

A citation of prior art under 37 C.F.R. § 1.501 has been filed by a third party on January 24, 2011 in the above-identified patent, entitled "SWITCHING WITH TRANSPARENT AND NON-TRANSPARENT PORTS".

Any inquiry concerning this decision should be directed to Brian Johnson whose telephone number is (571) 272-3595.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture and Software

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MAILED
AUG 03 2011
OFFICE OF PETITIONS

LLNS / JOHN P. WOOLDRIDGE
JOHN H. LEE, ASSISTANT LABORATORY COUNSEL
L-703, P.O. BOX 808
LIVERMORE, CA 94551

In re Patent No. 7,587,236	:	
Issue Date: September 8, 2009	:	
Application No. 11/031,936	:	ON PETITION
Filed: January 8, 2005	:	
Attorney Docket No. IL-11284	:	

This is a decision on the petition filed July 7, 2011, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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MAILED
SEP 29 2011
OFFICE OF PETITIONS

BEYER LAW GROUP LLP
P.O. BOX 1687
CUPERTINO, CA 95015-1687

In re Patent No. 7,145,801	:	
Issue Date: December 5, 2006	:	
Application No. 11/031,985	:	NOTICE
Filed: January 7, 2005	:	
Attorney Docket No. MES1P090		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY, MN 55422

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Patent No. 7,610,997 :
Issue Date: November 3, 2009 :
Application No.: 11/031,988 : ON PETITION
Filed: January 7, 2005 :
Attorney Docket No.: 4272 PUS FR/EB (20050024:

This is a decision in response to the "Petition to Correct Inventor's Name Pursuant to 35 USC 256"" filed November 11, 2010, which is being treated under 37 CFR 1.182 to correct the spelling of the name of inventor "Michael Roupp" to – Michael Ruopp – by way of a Certificate of Correction.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. In this instance, the fee required by law is $400. It is noted that petitioner submitted a fee of $130.

Since the petition in the above-identified application was not accompanied by payment of the required fee, no consideration on the merits can be given that petition until the required fee is received.

Petitioner is also reminded that a request for a certificate of correction pursuant to the provisions of 37 CFR 1.323, along with the required fee of $100, is required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY MN 55422

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,610,997	:	
Issue Date: November 3, 2009	:	
Application No.: 11/031,988	:	DECISION ON PETITION
Filed: January 7, 2005	:	
Attorney Docket No. 4272 PUS FR/EB (20050024.	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed, December 28, 2010, to correct the spelling of the name of inventor "Michael Roupp" to – Michael Ruopp --. The $400 petition fee has been paid.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

The petition was accompanied by a certificate of correction pursuant to the provisions of 37 CFR 1.323 and the $100 fee required under 37 CFR 1.20(a). Accordingly, it would be appropriate for a certificate of correction to be processed to correct the spelling of the name of inventor on the front page of the patent.

The request is **GRANTED** to the extent indicated. The application is being referred to the Certificate of Correction Branch for further consideration of the other corrections requested in the Certificate of Correction filed December 28, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/031,988	01/07/2005	3657	1560	4272 PUS FR/EB (20050024.	20	3

CONFIRMATION NO. 3151

CORRECTED FILING RECEIPT

69638
KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY, MN 55422

OC000000046263305

Date Mailed: 03/01/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Ruopp, Berghulen, GERMANY;

Assignment For Published Patent Application

GUSTAV MAGENWIRTH GMBH & CO. KG, Bad Urach, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 23595

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.)
GERMANY 10 2004 001 495.7 01/09/2004

If Required, Foreign Filing License Granted: 04/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/031,988**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

BRAKE CALIPER AND METHOD FOR THE PRODUCTION OF A HOUSING OF A BRAKE CALIPER

Preliminary Class

188

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

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.
11/032,213	01/11/2005	Keizo Ueno	1504.1028	4711

21171 7590 07/22/2011
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
CHOE, YONG J

ART UNIT	PAPER NUMBER
2185	

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.: 11032213	:	
Filed: 01/11/2005	:	**DECISION ON PETITION**
Patent Number: 7,925,843	:	
Issue Date: 04/12/11	:	
Attorney Docket No. **1504.1028**	:	

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 13, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/29/2011

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/032285 Patent No.: 7854262 B2

CofC mailroom date: 11/10/2011

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: No initials on 1449 dated 8/31/2007

Virginia Tilbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

3765
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)
7231405	2007-06-12	11/032,385	2005-01-10	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Scott D. Reinke/	Date (YYYY-MM-DD)	2011-07-20
Name	Scott D. Reinke		
Enter Reel and Frame Number		Remove	
Reel Number	026051	Frame Number	0983
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. 7231405
Issue Date: June 12,2007
Application No. 11032385
Filed: January 10,2005
Attorney Docket No. XXA04-01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 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 July 20,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Patent No. 7218022 :
Issue Date: 05/15/2007 :
Application Number: 11/032748 :
Filing or 371(c) Date: 01/11/2005 :
Attorney Docket Number: SOIS-4 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on November 16, 2010.

The letter is not properly signed.

37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The letter does not appear to be signed by a proper party in accordance with 37 CFR 1.33. Further, if the paper is to be signed by an assignee in accordance with 37 CFR 3.71(b), a statement in compliance with 37 CFR 3.73(b) must be filed that is signed by a party who is authorized to act on behalf of the assignee. No such statement has been filed.

Any papers filed in the USPTO, including a fee deficiency submission under 37 CFR 1.28, must be signed in accordance with 37 CFR 1.33(b). Accordingly, it is recommended that patentees submit a properly signed request under 37 CFR 1.28.

The Office acknowledges receipt of payment of $490.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via the EFS-Web system of the USPTO.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,218,022 :
Issue Date: 05/15/2007 :
Application Number: 11/032,748 : NOTICE
Filing or 371(c) Date: 01/11/2005 :
Attorney Docket Number: SOIS-4 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on February 28, 2011.

The Office no longer investigates or rejects original or reissue patents under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood
Douglas Wood
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7351823
Ser. No. : 11/032815
Inventor(s) : Mathias Berwe et al.
Issued : 04/01/2008
Title : PREPARATION PROCESS
Docket No. : 11987-00038-US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

A Petition should be filed at the Petitions Office requesting that the patent term adjustment indicated on the above-identified patent be corrected or extended or adjusted.
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.

In view of the foregoing, your request, in this matter, is hereby denied.

Any request under 37 CFR 1.705(d) 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

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 8/11/2010

Address: Christine M. Hansen
CONNOLLY, BOVE, LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207

ts/md

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

NOV 01 2011

OFFICE OF PETITIONS

DAN M. DE LA ROSA, Esq.
300 EAST 77th STREET
SUITE 24C
NEW YORK NY 10075

In re Application of :
Kedar N. PRASAD et al. : ON PETITION
Application No. 11/032,831 :
Filed: January 11, 2005 :
Atty. Docket No.: P/4205-5

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 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 mailing 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 respond in a timely manner to the final Office action mailed March 16, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned June 17, 2009. A Notice of Abandonment was mailed October 15, 2009.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. *See,* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application. See attached copy of Advisory Action.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

Robert DeWitty
Petitions Attorney
Office of Petitions

Enclosure: Copy of Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

JAN 20 2012

OFFICE OF PETITIONS

DAN M. DE LA ROSA, Esq.
300 EAST 77th STREET
SUITE 24C
NEW YORK NY 10075

In re Application of :
Kedar N. PRASAD et al. : ON PETITION
Application No. 11/032,831 :
Filed: January 11, 2005 :
Atty. Docket No.: P/4205-5

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 13, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to respond in a timely manner to the final Office action mailed March 16, 2009 (outstanding Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned June 17, 2009. A Notice of Abandonment was mailed October 15, 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 outstanding Office action, a Request for Continued Examination (RCE), and RCE fee, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the outstanding Office action 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 1614 for consideration on the filed Response.

Robert DeWitty
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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,495,109 : ON PETITION
Sun et al. : UNDER 37 CFR 1.183, 37 CFR
Issue Date: February 24, 2009 : 1.182 and
Application No. 11/032,955 : ON APPLICATION FOR
Filed: January 11, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 085742-0495 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION UNDER 37 C.F.R. § 1.183 AND 37 CFR §1.182 AND OF DISMISSAL OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR. 1.705 (d)", filed July 22, 2010, requesting reconsideration on the merits and revision of the patent term in accordance with Wyeth. This is also a decision on the request for certificate of correction filed on August 23, 2010.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

The petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,495,109 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept <u>any</u> requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a

PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

The present renewed petition under 37 CFR 1.183 and 37 CFR 1.182 is granted to the extent that the decision of June 8, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 and 37 CFR 1.182 is **DENIED**. Accordingly, patentees' request for a certificate of correction filed on August 23, 2010 is **DENIED**.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Attorney, Office of Petitions, at (571) 272-3215.

Anthony Knight
Director
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

STEPTOE & JOHNSON LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES, CA 90067

Mail Date: 11/25/2011

Applicant	: Joshua C. Kline	: DECISION ON REQUEST FOR
Patent Number	: 7660416	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/033,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1312** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 08/30/2010

Applicant	: Claude L. Bertin	: DECISION ON REQUEST FOR
Patent Number	: 7652342	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/033,087	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **447** 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 : April 26, 2010

TO SPE OF : ART UNIT 2841
SUBJECT : Request for Certificate of Correction for Appl. No 11/9033115 patent 7692934

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: _____

/TIMOTHY THOMPSON/ 2835
Supervisory Patent Examiner **SPE** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MICHAEL G. CAMERON, ESQ.
2025 SAVANNAH DRIVE
McKINNEY TX 75070

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Cole	:	
Application No. 11/033,331	:	
Patent No.: 7,156,003	:	DECISION ON PETITION
Filed: January 11, 2005	:	PURSUANT TO
Issued: January 2, 2007	:	37 C.F.R. § 1.28(c)
Title: RADIAL INDEXING HEAD	:	
TOOL WITH FLOATING SPLINED PIN	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on January 3, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(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 a non-small entity;
(b) The small entity fee actually paid, and when;
(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.

Petitioner has erroneously identified the particular type of fee that was erroneously paid as a small entity. Petitioner has identified the deficiency owed amount and the total deficiency payment owed.

Petitioner has not identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, or the small entity fee that was actually paid.

The requirement that Petitioner must provide the Office with the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, and the small entity fee that was actually paid is waived, *sua sponte*.

The deficiency payment in the amount of $555 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate

---

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).

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.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Brian Cole
7630 Avalon Drive
Plano, TX 75025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH PA 15222-2613

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Jaime E. GARCIA et al.	:	
Application No. 11/033,502	:	DECISION ON PETITION
Filed: January 11, 2005	:	
Attorney Docket No. 020416CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 03, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed April 02, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 03, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Allowability of April 02, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction for Appl. No.: 11033510 Patent No.: 7850047

CofC mailroom date: 5/25/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Note: Claims

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: _____

Kevin P. Shaver — **SPE**

3754 — **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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Webster, et al.	:	
Application No. 11/033,524	:	ON REQUEST FOR
Filed: January 12, 2005	:	RECONSIDERATION OF
Attorney Docket Number: 088245-2602	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), August 3, 2011. Applicants believe that the PTA should be accorded an additional three hundred eleven (311) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **seven hundred sixty-six (766) days**.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of :
Helliwell, et al. :
Application No. 11/033,553 : ON APPLICATION FOR
Filed: January 12, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 1021565-000158 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed September 15, 2010. The request will be treated as a petition under 37 C.F.R. § 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred sixty-five (1165) days, not ninety-one (91) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BAKER & MCKENZIE LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
Houston TX 77002

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of :
Yash Sharma : ON PETITION
Application No. 11/033,812 :
Filed: January 13, 2005 :
Atty Docket No.95176571-003001:
(64266-00 :

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed May 20, 2011 (and resubmitted May 27, 2011).

The instant petition was filed by Amitab Sharma. He says the primary reason that for the unintentional abandonment was related to the serious health issues his father, the sole inventor, was dealing with. He says he was named CEO of G-10, Inc., to protect the company's assets. However, the petition does not include a 3.73(b) statement.

Accordingly, the petition is **dismissed without consideration on the merits** pending the filing of a 3.73(b) statement or the filing of a power of attorney signed by the inventor or the petition signed by the inventor.

A petition to revive an application must be made by all of the inventors, an assignee who has established the right to take action in an application by filing a 3.73(b) statement or a registered patent practitioner acting on behalf of the inventors or assignee. In this instance, the inventor's son has filed the petition without establishing that he has the authority to do so. Moreover, there is no assignment of record in this application. In view thereof, the petition cannot be accepted.

A courtesy copy of this petition is being sent to the address set forth on the petition. However, all further correspondence will be mailed solely to the correspondence address of record until such time as a proper change of correspondence address is filed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Amitab Sharma
G-10, Inc.
43393 Cedar Pond Place
Chantilly, VA 20152

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BAKER & MCKENZIE LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
Houston TX 77002

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of :
Yash Sharma : ON PETITION
Application No. 11/033,812 :
Filed: January 13, 2005 :
Atty Docket No.95176571-003001:
(64266-00 :

This is in response to the letters filed June 15, 2011 and June 23, 2011, which are properly treated as a supplement to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) originally filed May 20, 2011 (and resubmitted May 27, 2011). Receipt of Amitab Sharma's telephone inquiries is acknowledged; however, Amitab Sharma is not established as a proper party to discuss this application.

The petition was filed by Amitab Sharma, the stated son of sole inventor Yash Sharma and as CEO of the purported assignee company. By decision mailed June 15, 2011, the petition was dismissed without consideration on the merits because the petition was not signed by the sole inventor or by a registered patent practitioner on behalf of the sole inventor, and did not include a power of attorney or include a 3.73(b) statement to establish the authority of Amitab Sharma to take action as CEO of the assignee. Further, there was no assignment of record. In other words, petitioner did not establish that the application was as alleged owned by G-10, Inc., and as CEO of G-10, Inc., Amitab Sharma had a right to take action in this application, including filing a petition to revive.

On instant renewed petition, Mr. Amitab Sharma filed a 3.73(b) statement. Unfortunately, the statement is not properly completed. Either part A or part B needs to be completed to establish the basis for the assignee to be such. In addition, the chain of title (assignment) needs to be recorded in the

Office with the assignment division. In view thereof, the renewed petition cannot be accepted.

A courtesy copy of this decision is being sent to the address set forth on the petition, which is also the address used initially by the sole inventor. However, all further correspondence will be mailed solely to the correspondence address of record until such time as a proper change of correspondence address is filed (or the attorney of record properly withdraws). Given the improper 3.73(b) statement the change of address filed with the petition and signed by Amitab Sharma is not effective.

Please note also to take care to place on papers filed in this application the correct application No. 11/033,812. (The 3.73(b) statement includes an extra "0" in the application number). In addition, any further response should be entitled "Supplement to Petition For Revival of An Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)."

Moreover, it is appropriate to advise *pro se* applicant that when the Office ultimately considers the petition on the merits, it can only be granted if it includes the petition fee, the required statement of unintentional delay and the required reply to the March 24, 2006 Office action (a reply that would have been sufficient to prevent abandonment). The Office currently has the petition fee and a statement of unintentional delay. The Office has not received a reply to the Office action mailed March 24, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219. For assistance in filing an assignment, you may contact the Assignment Recordation Branch customer service desk at 571-272-3350 during regular business hours.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Yash Sharma
G-10, Inc.
43393 Cedar Pond Place
Chantilly, VA 20152

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

AMITAB SHARMA
43393 Cedar Pond Drive
Chantilly VA 20152

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of :
Yash Sharma : ON PETITION
Application No. 11/033,812 :
Filed: January 13, 2005 :
Atty Docket No.95176571-003001:
(64266-00 :

This is in response to the communication filed August 2, 2011, which is properly treated as a further supplement to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) originally filed May 20, 2011 (and resubmitted May 27, 2011). This communication includes a copy of the durable power of attorney authorizing Amitab Sharma to act on behalf of his father, Yash Sharma.

Receipt of the change of correspondence address is acknowledged and made of record.

By decisions mailed June 15, 2011 and July 28, 2011, the petition was dismissed without consideration on the merits because it was not established that the petition was filed by a proper party. Amitab Sharma has now established the authority to act on behalf of his father. As such, the petition under 37 CFR 1.137(b) can now be considered on the merits.

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 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

On March 24, 2006, a non-final Office action was mailed in the above-identified application. This Office action set a

shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned effective June 25, 2006. A courtesy Notice of Abandonment was mailed on October 4, 2006.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A petition filed 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 § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition included payment of the petition fee set forth in 37 CFR § 1.17(m) and the required statement of unintentional delay, along with an additional statement of the facts relied on to conclude that the delay was unintentional. (No terminal disclaimer is required). The above-identified application has been abandoned for an extended period of time. The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office.)

However, the requirements of 37 CFR 1.137(b) have not been met as the petition did not include a reply to the Office action. As previously stated, a reply to the March 24, 2006 Office action must be submitted before this application can be revived. (Otherwise, there is nothing for the Office to act on upon

revival). As no reply has been filed, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this 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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Paper No.

Fanelli Haag PLLC
1909 K Street, N.W.,
Suite 1120
Washington DC 20006

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re Application of :
Yash Sharma : ON PETITION
Application No. 11/033,812 :
Filed: January 13, 2005 :
Atty Docket No.95176571-003001:
(64266-00 :

This is in response to the Request for Reconsideration of the Petition to Revive for Unintentional Abandonment filed October 13, 2011.

The petition is **GRANTED**.

Receipt of the new Power of Attorney (and change of correspondence address) is acknowledged and made of record.

By decisions mailed June 15, 2011 and July 28, 2011, the petition was dismissed without consideration on the merits because it was not established that the petition was filed by a proper party. In response on August 2, 2011, Amitab Sharma established the authority to act on behalf of his father, the sole inventor. By decision mailed August 22, 2011, the petition under 37 CFR 1.137(b) was first considered on the merits and dismissed for failure to submit the required reply to the Office action.

On instant renewed petition, made timely by an accompanying extension of time, petitioner submitted the required reply in the form of an amendment. All requirements have 37 CFR 1.137(b) have now been met. The petition fee as set forth in § 1.17(m) was paid on May 27, 2011. Petitioner has made the required statement of unintentional delay. The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office.) No terminal disclaimer is required.

Technology Center AU 1644 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed October 13, 2011.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford CT 06103

MAILED
OCT 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Favalora et al.	:	
Application No. 11/033850	:	DECISION
Filing or 371(c) Date: 01/12/2005	:	ON PETITION
Patent No.: 7364300	:	
Issue Date: 04/29/2008	:	
Attorney Docket Number: ACS-0013	:	

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.

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.

Petitioner is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence. A 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 matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ELLIS AMALGAMATED, LLC
455 MASSACHUSETTS AVENUE
STE. 1
ARLINGTON, MA 02474

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

12/6/2010

Patent No. :7232436
Inventor(s) :Josef Bille
Issued :6/19/2007
Title :CLOSED LOOP CONTROL FOR INTRASTROMAL WAVEFRONT-GUIDED ABLATION WITH FRACTIONATED TREATMENT PROGRAM
Atty.doc./File No.

Request for Certificates 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 CFR 1.322.

Inspection of the application for the patent reveals that the reuest to the claims are denied by the SPE. Therefore being no fault on 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 forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

Neil K. Nydegger, Esq.
NYDEGGER & ASSOCIATES
348 Olive Street
San Diego, CA 92103

HR

UNITED STATES 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. : 7,373,709
Application No.11/034,020
Inventor(s) : Dieter Bauer
Issued : 05/20/2008
Attorney Docket No.: 004-18

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.323.

Respecting the alleged errors in specification and claims, are printed in accordance with the record. Therefore, no correction(s) is in order here under United States Codes (U.S.C.)254 Code Federal Regulation.

In view of the foregoing, your request, in this matter, is hereby denied.

Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
703-756-1580 or (703) 756-1814
Date: 05/26/2011

Address: James E. Brunton, ESQ.
P.O. Box 29000
Glendale, CA 91209

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/034,085	VALLABHANENI, RAMESH	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL		CROSS REFERENCE(S)							
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	6	435	7.1	91.1					
INTERNATIONAL CLASSIFICATION		536	23.1	24.3					
C 1 2 Q	1/68								
G 0 1 N	33/53								
C 1 2 P	19/34								
C 0 7 H	21/02								
C 0 7 H	21/04								

(Assistant Examiner) (Date)	/Frank W Lu/ 9/17/2010	Total Claims Allowed: 40
(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	Final	Original
1	1	28	31		61		91		121		151		181
2	2	29	32		62		92		122		152		182
3	3	30	33		63		93		123		153		183
4	4	31	34		64		94		124		154		184
5	5	32	35		65		95		125		155		185
6	6	33	36		66		96		126		156		186
	~~7~~	34	37		67		97		127		157		187
7	8	35	38		68		98		128		158		188
8	9	36	39		69		99		129		159		189
9	10		~~40~~		70		100		130		160		190
10	11	37	41		71		101		131		161		191
11	12	38	42		72		102		132		162		192
12	13	39	43		73		103		133		163		193
13	14	40	44		74		104		134		164		194
14	15		~~45~~		75		105		135		165		195
15	16		~~46~~		76		106		136		166		196
16	17		~~47~~		77		107		137		167		197
17	18		~~48~~		78		108		138		168		198
18	19		~~49~~		79		109		139		169		199
19	20		~~50~~		80		110		140		170		200
20	21		~~51~~		81		111		141		171		201
21	22		~~52~~		82		112		142		172		202
22	23		~~53~~		83		113		143		173		203
23	24		~~54~~		84		114		144		174		204
24	25		~~55~~		85		115		145		175		205
25	26		~~56~~		86		116		146		176		206
	~~27~~		~~57~~		87		117		147		177		207
26	28		~~58~~		88		118		148		178		208
	~~29~~		~~59~~		89		119		149		179		209
27	30		~~60~~		90		120		150		180		210

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April 19, 2011

Jon M. Gibbs
Suite 1700
255 South Orange Avenue
Orlando FL 32801

In re Application of	:	
Ramesh Vallabhaneni	:	**DECISION ON PETITION**
Application No.11034085	:	
Filed: 01/12/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **7915-1**	:	***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) January 12, 2005.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/034,085	01/12/2005	Ramesh Vallabhaneni	7915-1	7261

7590 04/20/2011

Jon M. Gibbs
Suite 1700
255 South Orange Avenue
Orlando, FL 32801

EXAMINER
LU, FRANK WEI MIN

ART UNIT	PAPER NUMBER
1634	

MAIL DATE	DELIVERY MODE
04/20/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WesternGeco L.L.C.
Kevin McEnaney, IP Dept
10001 Richmond Avenue
HOUSTON TX 77042-4299

NOV 23 2010

In re Application of
NICHOLS, EDWARD :
Application No. 11/034,500 :
Filed: January 13, 2005 :
Attorney Docket No.: 23.0014-US-DIV1 :

DECISION ON PETITION

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 30, 2008.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue fee and Publication fee as required by the Notice of Allowance, mailed January 28, 2080 which set forth a three (3) month statutory period for reply. The Notice of Abandonment was mailed on May 22, 2008.

In absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Action Are Not Received" MPEP 711.03(c) II.

Petitioner has met the above-stated conditions. Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The file indicates 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.

This matter is being referred to Technology Center AU 2862 for re-mailing the Notice of Allowance.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

cc: SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

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MAILED

JAN 26 2011

OFFICE OF PETITIONS

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

In re Application of	:
Palu et al.	:
Application No. 11/034,505	: DECISION ON PETITION
Filed: January 13, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10209.607	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 12, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed 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 petition does not comply with item (1) above.

The amendment to the substitute specification herein is not acceptable seeing that the present Application No. 11/034,505, filed January 13, 2005, is claiming priority to provisional Application No. 60/458,353 filed March 28, 2003, under 35 U.S.C. § 119(e). The current application was not filed within twelve months from the filing date of the provisional application, and there is no indication of an intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application.

In view of the above, copendency does not exist between these applications and the benefit claim to the prior-filed provisional application is still improper. Copendency between the instant application and the prior applications is required.

Further, it is also noted that the amendment to the specification submitted with the instant petition states, "This application ... is a continuation-in-part of United States Patent Application Serial No. 11/034,505, filed January 13, 2005." It is unclear how the instant application can be a continuation-in-part of itself.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment[1] correcting the above items, including deleting the reference to the prior-filed application from the first sentence(s) of the specification, or the application data sheet, depending on where the reference was originally submitted, unless applicant can establish that this application, or an intermediate nonprovisional application, was filed within 12 months of the filing date of the provisional applications along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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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

By Internet: EFS-Web[2]

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6509.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

---

[1] *Note* 37 CFR 1.121

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of	:
Palu et al.	:
Application No. 11/034,505	: DECISION ON PETITION
Filed: January 13, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10209.607	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 28, 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 petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed 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 petition does not comply with item (1) above.

The amendment to the substitute specification herein is not acceptable as it states "and this application is a continuation-in-part of United States Patent Application No. 10/285,359, now United States Patent No. 7,033,624, filed October 3, 2002...and claims priority to United States Provisional Patent Application No. 60/335,343, filed November 2, 2001." The instant Application No. 11/034,505, filed January 13, 2005, is directly claiming priority to provisional Application No. 60/335,343 filed November 2, 2001, under 35 U.S.C. § 119(e). Petitioner is reminded that when a later-filed application is claiming the benefit of a prior-filed provisional application under 35 U.S.C.

119(e), the nonprovisional application must be filed not later than 12 months after the date on which the provisional application was filed. In view of the above, the current application was not filed within twelve months from the filing date of the provisional application and therefore copendency does not exist between these applications and the benefit claim to the prior-filed provisional application is improper. Copendency between the instant application and the prior applications is required.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment[1] correcting the above items, including deleting the reference to the prior-filed application from the first sentence(s) of the specification, or the application data sheet, depending on where the reference was originally submitted, unless applicant can establish that this application, or an intermediate nonprovisional application, was filed within 12 months of the filing date of the provisional applications along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer 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
By Internet:	EFS-Web[2]

Any questions concerning this matter may be directed to Alicia Kelley-Collier at (571) 272-6509.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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SUITE 1800
SALT LAKE CITY UT 84111

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FEB 03 2012

OFFICE OF PETITIONS

In re Application of	:
Palu et al.	: DECISION ON PETITIONS
Application No. 11/034,505	: UNDER 37 CFR 1.78(a)(3)
Filed: January 13, 2005	: AND 37 CFR 1.78(a)(6)
Attorney Docket No. 10209.607	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed January 11, 2012, 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 Amendment concurrently filed.

The petitions are **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed 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 petition does not comply with item (1) above.

With regards to item (1), when a later-filed application is claiming the benefit of a prior- filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c), the later-filed application must be copending with the prior application or with an intermediate nonprovisional application similarly entitled to the benefit of the filing date of the prior application. Copendency is defined in the clause which requires that the later-filed application must be filed before: (A) the patenting of the prior application; (B) the abandonment of the prior application; or (C) the termination of proceedings in the prior application.

Petitioner has requested benefit of provisional Application No. 60/458,353, filed on March 28, 2003 and expired on March 29, 2004. Since the instant application was filed on January 13, 2005, no copendency exists between these two applications. Copendency between the instant application and the prior application is required. Since the applications are not copending, the

benefit claim to the prior-filed provisional is improper. Applicant is required to delete the reference to the prior-filed application from the first sentence(s) of the specification, unless applicant can establish copendency between the applications.

Additionally, petitioner should note that the continuity chain claimed is also improper.

MPEP 201.11(III)(3) states:

If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See *Sticker Indus. Supply Corp. v. Blaw-Knox Co.*, 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and *Hovlid v. Asari*, 305 F. 2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No.B must have a reference to provisional Application No. A.

Further, with regards to item (1), nonprovisional Application No. 10/285,359 has no common inventors with provisional Application No. 60/335,343. As discussed in MPEP 201.11, the later-filed applications must be filed by an inventor or inventors named in the prior-filed application for a benefit claim under 35 U.S.C. §§ 120 and 119(e).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required. No further petition fee is necessary.

Further correspondence with respect to this matter should be addressed as follows:

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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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

CC: ZDURNE,DAVID
DENTSPLY International
221 West Philadelphia Street
Suite 60
York, PA 17401

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OCT 01 2010

Ralph E. Jocke
Walker and Jocke
231 South Broadway
Medina, Ohio 44256

In re Application of Drummond et al. Application No. 11/034,800 Filed: September 12, 2002 For: METHOD AND SYSTEM FOR CONNECTING SERVICE TO AN AUTOMATED BANKING MACHINE	: : : : : : : :	DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is in response to applicant's petition under 37 CFR 1.144 filed on May 4, 2009 requesting a withdrawal of the restriction requirement made in the Office action mailed September 26, 2008.

The petition is **GRANTED**.

Applicants argue that the restriction requirement was improper because the examiner has applied improper and unreasonable criteria (i.e., subcombinations) for insisting on restriction, failed to show the groupings to be distinct, failed to consider the issue of rejoinder, and failed to provide sufficient basis for requiring a restriction.

A review of the record indicates that the examiner required an election between two groups comprising claims 36-41, 43-56 (Group I) and 57-70 (Group II) on September 26, 2008. Applicants filed a response on October 14, 2008 electing claims 36-41 and 43-56 of Group I with traverse. The examiner mailed an Office action on March 16, 2009 acknowledging the election and requesting information under 37 CFR 1.105. Applicants timely filed this petition on May 4, 2009 to withdraw the restriction.

MPEP § 806 states that "Where inventions are related as disclosed but are not distinct as claimed, restriction is never proper."

MPEP § 806.03 states that "Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition."

A review of the independent claims 36, 44 and 57 indicates that these claims have common features of a cash dispenser, transaction service, processor, transaction function device, device driver data/service proxy software component, data store, etc.

It is clear that the claimed subject matter of claims 36-41 and 43 is not distinct from the claimed subject matter of claims 44-56 which is not distinct from the claimed subject matter of claims 57-70. There is no examination burden for searching these claims since the search would be the same for the three groups of claims. The claims of the instant application define the same essential characteristics of a single disclosed embodiment of an invention of an automated transaction machine. Claims 36, 44 and 57 are not directed to distinct inventions; they define the same invention but varying in scope. Therefor, the restriction requirement set forth in the Office action of September 26, 2008 was improper and is hereby withdrawn.

The application will be forwarded to the examiner for a prompt non-final action on all pending claims.

Any questions related to this decision should be directed to Supervisory Patent Examiner Charles R. Kyle at (571) 272-6746.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

crk/lm: 09/27/2010

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/034,800	01/12/2005	Jay Paul Drummond	D-1120 R1 DIV2	9863

28995 7590 11/22/2010
RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

EXAMINER
SUBRAMANIAN, NARAYANSWAMY

ART UNIT	PAPER NUMBER
3695	

MAIL DATE	DELIVERY MODE
11/22/2010	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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NOV 22 2010

RALPH E. JOCKE
Walker & Jocke
231 South Broadway
Medina, OH 44256

In re Application of Drummond et al. Application No. 11/034,800 Filed: January 12, 2005 For: CASH DISPENSING AUTOMATED TRANSACTION MACHINE AND METHOD	: : : : :	DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR § 1.144

This is in response to applicants' petition filed under 37 CFR 1.144 received November 12, 2010 requesting a review of the requirement for restriction mailed October 13, 2010.

The petition is **DISMISSED as being premature**.

The record indicates that the examiner made a first requirement for restriction on September 26, 2008 between invention I (claims 36-41 and 43-56) drawn to an automated transaction machine and invention II (claims 57-70) drawn to a method and a computer readable media on the grounds that the inventions are related as subcombinations disclosed as being useable together in a single combination. Applicants elected with traverse in the response received October 14, 2008. The examiner, upon reconsideration, adhered to the restriction requirement and made the requirement final in the Office action mailed March 16, 2009. Applicants filed a petition pursuant to 37 CFR 1.144 on May 4, 2009 requesting review and withdrawal of the restriction requirement. The petition was granted in a communication mailed October 1, 2010 since it was determined that the claims of invention I are not distinct from the claims of invention II since the claims have common features.

A further review of the record indicates that in response to the petition decision, the examiner issued a second requirement for restriction on October 13, 2010 between invention I (claims 36-41 and 43) drawn to an automated transaction machine and invention II (claims 44-70) drawn to a method and a computer readable media on the grounds that the inventions are related as subcombinations disclosed as being useable together in a single combination. In response to the second requirement, applicants filed the instant petition.

37 CFR 1.144 provides, in part (emphasis added).

> **After a final requirement** for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement.

The petition is premature since a final requirement for restriction has not been made. Filed concurrently with the petition is an election along with a request for reconsideration of the restriction requirement. Accordingly, the application will be forwarded to the examiner for reconsideration of the restriction requirement.

Any questions concerning this decision should be referred to Quality Assurance Specialist Teri Luu at (571) 272-7045.

Katherine Matecki

for Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

WC/tl: 11/18/10

UNITED STATES 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 LLP
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,455,996	: DECISION ON
Osumi, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/034,848	: of PATENT TERM ADJUSTMENT
Issue Date: November 25, 2008	: and
Filed: January 14, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 337031US40SD	: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION UNDER 37 C.F.R. 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed January 16, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from seven hundred twenty-two (722) days to nine hundred eighty-seven (987) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

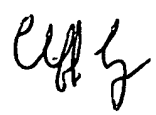
On November 25, 2008, the instant application matured into U.S. Patent No. 7,455,996 with a patent term adjustment of 722 days. The Office determined a patent term adjustment of 722 days based upon 722 days of Office delay pursuant to 37 CFR 1.703(a)(1), reduced by 0 days of Applicant delay.

Patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on January 15, 2008 (not January 15, 2008 as stated by Patentees) and ended on November 25, 2008 (the patent issue date), and is 316 days (not 318 days as stated by Patentees). See 35 U.S.C. 154(b)(1)(B)(i). Therefore, the "B" delay period is 316 days, not 0 days as originally calculated.

In view thereof, the correct number of days of patent term adjustment is **nine hundred eighty-seven (987)** days (722 days of "A" delay and 316 days of "B" delay, reduced by 51 days of overlap between "A" and "B" delay).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred eighty-seven (987) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,455,996 B2

DATED : **November 25, 2008**

INVENTOR(S) : Osumi 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 722 days.

Delete the phrase "by 722 days" and insert – by 987 days--

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 21 2010

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,631,899
Issued: December 15, 2009
Application No. 11/034,889
Filed: January 14, 2005
Attorney Docket No. **086142-0738**

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH filed on May 20, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 731 days to 914 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 January 14, 2008 and ends on June 24, 2009, the day before the RCE was filed, the B delay would be 527 days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee fails to account for the filing of a Notice of Appeal on April 22, 2008, and the subsequent filing of the Final Office Action on October 22, 2008. The 527 days of the over three year period therefore would be consumed by appellate review, beginning on April 22, 2008 and ending on October 22, 2008. The time for appellate review is excluded (527-183); thus the "B delay is 344 days. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 731 days (434 "A delay days" + 344 "B delay days" (527-183) - 47 Applicant delay days), not 914 days.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-25-11

TO SPE OF : ART UNIT 3772

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/034996 Patent No.: 7766011

CofC mailroom date: 01-11-11

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

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: _____

1/31/2011

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MASTERMIND IP LAW PC
421-A SANTA MARINA COURT
ESCONDIDO, CA 92029

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Freim et al.	:	
Application No. 11/035,168	:	DECISION ON PETITION
Filed: January 12, 2005	:	
Attorney Docket No. 0009-P002001	:	

This is a decision on the renewed petition, filed March 26, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to 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). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 8, 2008. On July 8, 2009, petitioner filed a five (5) month extension of time including an amendment. An Advisory Action mailed August 18, 2009, did not enter the amendment filed on July 8, 2009, for the purposes of an appeal. Accordingly, the application became abandoned on July 9, 2009.

Petitioner asserts that since the applicants' claims were not under final rejection, the amendment filed on July 8, 2009, should have been considered. However, pursuant to MPEP 1206: Entry of a new amendment in an application on appeal is not a matter of right. The entry of an amendment (which may not include a new affidavit, declaration, exhibit or other evidence) submitted in an application on appeal is governed by 37 CFR 41.33, as previously cited. Further, Amendments filed after the filing of a notice of appeal, but prior to the date of filing a brief, may be admitted only to: (A) cancel claims; (B) comply with any requirement of form expressly set forth in a previous action; (C) present rejected claims in better form for consideration on appeal; or (D) amend the specification or claims upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented. See 37 CFR 41.33(a). If the examiner denies the entry of such an amendment, the examiner should use form PTOL-303, "Advisory Action Before the Filing of an Appeal Brief," to notify the applicant of the non-entry and the reason for non-entry.

In view of the above, the application was properly held abandoned. Therefore, the petition requesting withdrawal of the holding of abandonment cannot be granted.

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 Internet: EFS-Web[1]

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

David Bucci
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101219

DATE : December 19, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7253283

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/10/10

TO SPE OF : ART UNIT 1621 Sullivan Daniel (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/035178 Patent No.: 6995188

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

N. Riley

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Susanna Moore/
Acting SPE

SPE

1621

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Vista IP Law Group, LLP
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,113,625 :
Issue Date: September 26, 2006 :
Application No. 11/035,182 : ON PETITION
Filed: January 13, 2005 :
Patentee(s): Matthew C. Watson, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on January 5, 2011, 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 Jennifer Giordano-Coltart 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.

Additionally, 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.

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. Thus, a courtesy copy of this decision is being mailed to the address given in the petition. If petitioner desires to receive future correspondence regarding maintenance fees for the above patent, the appropriate power of attorney or authorization of agent and a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted. See USPTO forms PTO/SB/47 and PTO/SB/125.

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: Jennifer Giordano-Coltart
1001 West Fourth Street
Winston-Salem, NC 27101

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 10/07/2010

Applicant	: Gerald Yakatan	: DECISION ON REQUEST FOR
Patent Number	: 7659282	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/035,213	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1123** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7254844	2007-08-14	11035274	2005-01-13	24269.0001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brent T. Winder/	Date (YYYY-MM-DD)	2011-10-14
Name	Brent T. Winder	Registration Number	46250

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. 7254844
Issue Date: August 14,2007
Application No. 11035274
Filed: January 13,2005
Attorney Docket No. 17854.1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 14,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMPSON E. FEHR
SUITE 300
GOLDENWEST CORPORATE CENTER
5025 ADAMS AVENUE
OGDEN UT 84403

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of :
Siddoway :
Application No. 11/035,605 :
Filed: 14 January, 2005 :
Attorney Docket No. PSIDHP :

DECISION

This is a decision on the petition filed on 10 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b) .

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

Petitioner failed to reply timely and properly following his submission of a Notice of Appeal and fee on 13 September, 2010, with reply (Appeal Brief and fee) due absent extension of time on or before 13 November, 2010.

The application went abandoned by operation of law after midnight 13 November, 2010.

The Office mailed the Notice of Abandonment on 10 May, 2011.

On 10 August, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an Appeal Brief and fee, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3643 for further processing (the Examiner's Answer) in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of	:	
Cossairt et al.	:	
Application No. 11/035607	:	DECISION
Filing or 371(c) Date: 01/14/2005	:	ON PETITION
Patent No.: 7277226	:	
Issue Date: 10/02/2007	:	
Attorney Docket Number: ACS-0014	:	

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.

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.

Petitioner is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence. A 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 matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ELLIS AMALGAMATED, LLC
455 MASSACHUSETTS AVENUE
STE. 1
ARLINGTON, MA 02474

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John R. Crossan
Crossan Intellectual Property Law,LLC
70 West Madison St.
Suite 5050
Chicago IL 60602-4214

In re Application of		NOV - 3 2010
SULLIVAN, ROBERT J.	:	
Application No.: 11/035,645	:	DECISION ON
Filing or 371(c) Date: January 14, 2005	:	PETITION
Attorney Docket Number: 1715424	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on October 14, 2010.

This petition is **DISMISSED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed June 24, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on October 7, 2010.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

MPEP 503 (postcard receipt as prima facie evidence)
Certificate of Mailing under 37 CFR 1.8(b)
"Express Mail" Mailing under 37 CFR 1.10

MPEP 503 states the following:

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

Unfortunately MPEP 503 is not applicable since there is no record of receipt of the Return Receipt Postcard, which if received in the Office would have been stamped (referred to as "Office Date" stamp) acknowledging receipt of the items identified thereon.

Provisions under 37 CFR 1.8(b) requires that the petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

37 CFR § 1.10 is not applicable since this procedure was not used.

The holding of abandonment cannot be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment. File a petition for Revival of Abandoned Application under CFR §1.137 (a) or (b). Forms are available at USPTO website http://www.uspto.gov

- Under 37 CFR 1.13(a), a petition for the revival of an ***unavoidable*** abandoned
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally***

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John R. Crossan
Crossan Intellectual Property Law,LLC
70 West Madison St.
Suite 5050
Chicago IL 60602-4214

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Sullivan	:	
Application No. 11/035,645	:	DECISION ON PETITION
Filed: January 14, 2005	:	
Attorney Docket No. 1715424	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2010 and supplemented November 12, 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 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (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) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT GROUP
MACDONALD, ILLIG,
JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE PA 16507-1459

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application of :
Falkenhainer :
Application No. 11/035,697 : DECISION
Filed: 13 January, 2005 :
Attorney Docket No. 53896.0000 :

This is a decision on the petition, filed on 19 May, 2011, to revive pursuant to 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

NOTE:

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, Petitioner **must** make such an inquiry.

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner **must** notify the Office.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

[1] See 37 C.F.R. §11.18(b), formerly §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Application No. 11/035,697

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to a non-final Office action mailed on 11 May, 2010, with reply due absent an extension of time on or before 11 August, 2010.

The application went abandoned after midnight 11 August, 2010.

The Office mailed the Notice of Abandonment on 2 February, 2011.

On 19 May, 2011, Petitioner filed a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[4]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3623 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 11035702

Filed : 14-Jan-2005

Attorney Docket No : USGINZ04300

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	USGI Medical, Inc.
Name2	
Address 1	1140 Calle Cordillera
Address 2	
City	San Clemente
State	CA
Postal Code	92673
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11035702
Filing Date	14-Jan-2005
First Named Inventor	Vahid Saadat
Art Unit	3774
Examiner Name	ANDREW IWAMAYE
Attorney Docket Number	USGINZ04300
Title	ATTENUATION OF ENVIRONMENTAL PARAMETERS ON A GASTRIC LUMEN

◉ 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

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	11035702
Filing Date	14-Jan-2005
First Named Inventor	Vahid Saadat
Art Unit	3774
Examiner Name	ANDREW IWAMAYE
Attorney Docket Number	USGINZ04300
Title	ATTENUATION OF ENVIRONMENTAL PARAMETERS ON A GASTRIC LUMEN

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☒ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ( ) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- (●) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Kenneth H. Ohriner/
Name	Kenneth H. Ohriner
Registration Number	31646

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 1, 2011

In re Application of :

Vahid Saadat

Application No : 11035702

Filed : 14-Jan-2005

Attorney Docket No : USGINZ04300

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed December 1, 2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

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

PYLE & PIONTEK LLC
221 N. LASALLE STREET, SUITE 1207
CHICAGO IL 60601

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Christopher W. Horbach	:	
Application No. 11/035,936	:	DECISION ON PETITION
Filed: January 14, 2005	:	
Attorney Docket No. RAY 40036	:	

This is a decision on the Petition For Expungement of Assignment Under MPEP 323.01(d), filed August 4, 2011, which is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified application.

The petition is **granted**.

Petitioner indicates that sections of the Contributions and Purchase Agreement are proprietary but were inadvertently provided on an assignment document associated with the above-identified application. Petitioner requests that this original document containing the sensitive proprietary information be expunged. A copy of this assignment document that redacts the proprietary information without disturbing the remainder of the document's contents was recorded at reel 026819 frame 0307 to replace the original document.

While, as noted in MPEP 323, the USPTO will not normally remove a recorded document but instead records supplemental correcting documents, the sensitive nature of the proprietary information in question justifies the requested expungement. Since the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief and the integrity of the assignment records will not be affected by granting the petition due to the presence of the newly recorded redacted copy, the requested expungement is granted.

The fee for a petitioner filed under 37 CFR 1.182 has been charged to petitioner's deposit account as authorized.

The relief will be effected as follows:

(1) the USPTO will remove any and all reference "pointers" in its relevant systems to the agreement recorded at reel 023409 frame 0414, such that the agreement cannot be located by referencing any of the applications or patents associated with the above-identified application against which the agreement was formerly recorded;

(2) the copy of the assignment document that redacts the proprietary information, recorded at reel 026819 frame 0307, will be recognized as having a date of recordation of October 23, 2009, the date the original document was recorded; and

(3) the petition and decision associated with this expungement will be maintained in confidence separate from any application or patent file to protect the sensitive information, including the reel/frame numbers of the original document.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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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

SEP 27 2010

OFFICE OF PETITIONS

In re Application :
Mohsenian :
Application No. 11/035,943 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: January 14, 2005 :
Dkt. No.: 16295US01 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 10, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1743 days, not 937 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

[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.

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	11036029
Filing Date	14-Jan-2005
First Named Inventor	Vahid Saadat
Art Unit	3779
Examiner Name	MATTHEW KASZTEJNA
Attorney Docket Number	USGINZ00710
Title	Methods and apparatus for obtaining endoluminal access

◉ 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
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Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 11036029

Filed : 14-Jan-2005

Attorney Docket No : USGINZ00710

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	USGI Medical, Inc.
Name2	
Address 1	1140 Calle Cordillera
Address 2	
City	San Clemente
State	CA
Postal Code	92673
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

MAILED

APR 01 2011

OFFICE OF PETITIONS

In re Application of Spurlock et al. Application No. 11/036,153 Filed: January 14, 2005 Attorney Docket No. NAI1P343/04.040.01	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on March 31, 2011 the power of attorney to Zilka-Kotab, PC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Patent Capital Group
6119 McCommas Blvd
Dallas TX 75214

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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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 11/01/2010

Applicant	: Stephen J. Orr	: DECISION ON REQUEST FOR
Patent Number	: 7657762	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/036,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1405** 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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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of	:	
John T. Ness et al.	:	
Application No. 11/036,275	:	DECISION ON PETITION
Filed: January 13, 2005	:	
Attorney Docket No. H295.106.101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, March 17, 2011, 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 September 20, 2011. A Notice of Abandonment was mailed on October 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $465, (2) the petition fee of $930, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1742 for appropriate action by the Examiner in the normal course of business on the reply received October 13, 2011.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OVERLAND PARK KS 66251-2100

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AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Cook, Fred S.	:	
Application No. 11/036,311	:	ON PETITION
Filed: January 14, 2005	:	
Attorney Docket No. 3084(16927)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with requisite fee (previously paid), (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2474 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

In re Patent No. 7,310,065
Issue Date: December 18, 2007
Application No.11/036,511
Filed: January 12, 2005
Attorney Docket No.: 47005-P014WOUS

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 30, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This 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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

MAILED
SEP 28 2010
OFFICE OF PETITIONS

In re Application of.	:	
Timothy G. Haines	:	
Application No. 11/036,584	:	NOTICE
Filed: January 14, 2005	:	
Attorney Docket No. 3293.09US02	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
JAN 04 2011
OFFICE OF PETITIONS

In re Application of

Bennett, et al.

Application No. 11/036,736

Filed: January 14, 2005

Attorney Docket No. **P20462**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,510.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed June 29, 2010. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on September 30, 2010. A Notice of Abandonment was mailed on October 14, 2010.

The issue fee and publication fee were received on November 23, 2010.

Form PTOL-85B, filed November 23, 2010, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 12 2012
OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Carter, et al.	:	
Application No. 11/036,777	:	ON APPLICATION FOR
Filed: January 15, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. **034288-0104**	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM FOR PATENT APPLICATION UNDER 37 CFR 1.705(b)" filed February 24, 2012, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is one thousand, eight hundred and seventy-eight (1,878) days, not one thousand, three hundred and fifty-two (1,352) 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 November 4, 2011.

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 OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

April 7, 2011

Patent No.:	7,844,065 B2
Applicant	: Sven von Dombrowski, et al.
Issued	: November 30, 2010
For	: **HEARING INSTRUMENT**
Docket No.	: **37389**

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 1.322/1.323.

Respecting the applicant's request to replace the abstract in printed patent. The change to abstract cannot be approved since the replacement abstract exceeds the 150 maximum length of words allowed. Therefore no correction is in order for the abstract.

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.

Antonio Johnson
(571)272-0483
For Mary F. Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

AJ/cbn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 28, 2011

TO SPE OF : ART UNIT 2828 SPE.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/036,798 Patent No.: 7,844,065 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the abstract be amended as requested by applicant?
See COCIN dated 03-24-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
X Denied	State the reasons for denial below.

Comments:
The amended abstract requested by applicant is not approved since it exceeds the maximum length of 150 words. **SPE** Huyen Le(Primary Examiner) **Art Unit** 2614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/14/11

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction for Appl. No.: 11036860 Patent No.: 7109550

CofC mailroom date: 06/07/11

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: Claim 1

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

9/9/2011

Kenneth Parker 2815

SPE **Art Unit**

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	11036866
Filing Date	14-Jan-2005
First Named Inventor	Vahid Saadat
Art Unit	3731
Examiner Name	RYAN SEVERSON
Attorney Docket Number	USGINZ00940
Title	Apparatus and methods for positioning and securing anchors

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 40518

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	USGI Medical, Inc.
Address	1140 Calle Cordillera
City	San Clemente
State	CA
Postal Code	92673
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 11036866

Filed : 14-Jan-2005

Attorney Docket No : USGINZ00940

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	USGI Medical, Inc.
Name2	
Address 1	1140 Calle Cordillera
Address 2	
City	San Clemente
State	CA
Postal Code	92673
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GEORGE O. SAILE
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Patent No.: 7,152304 :
Issue Date: 26 December, 2006 :
Application No. 11/036.959 : DECISION
Filed: 14 January, 2005 :
Attorney Docket No. HT01-036/038D

This is a decision on the petition, filed on 21 June, 2010, properly considered as a request pursuant to 37 C.F.R. §1.377 to accept and record a maintenance fee for the above-identified patent.

> **NOTE:** While the address of record is the same as that on the petition, the identification of the Petitioner is different. Out of an abundance of caution, a copy of this decision is being directed to the named Petitioner, however, the correspondence data of record will not be altered in the absence of a proper Notice to the Office.

The petition is **GRANTED**, and the first third maintenance fee is accepted.[1]

The instant patent issued on 26 December, 2006.

The first maintenance fee could have been paid from 256 December, 2009, through midnight 26 May, 2010, and with surcharge from 27 May, 2010, through 26 December, 2010.

Petitioner averred an attempt to pay with an incorrect patent designation submitted over a certificate of mailing on 10 May, 2010, and Petitioner's action(s) to correct Petitioner's error on 21 June, 2010.

Thus, it appears that the Office did not accept the maintenance fee to the instant patent in May 2010, however, the June 2010 was timely.

[1] With surcharge, where applicable.

Patent No.: 7,152304
Application No. 11/036.959

Petitioner has adequately demonstrated that the Office may accept and record the first maintenance fee payment for the above-noted patent.

Accordingly, the petition is **GRANTED**.

The petition fee is waived *sua sponte*–and it appears that it was not charged. Should Petitioner later find that the petition fee was charged, Petitioner may file with the Office of Finance a request for refund with a copy of this decision.

This file is released to the 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
STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

[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.

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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Elmar, et al.	:	
Application No. 11/037,038	:	ON PETITION
Filed: January 19, 2005	:	
Attorney Docket No. 029310.55839US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 29, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on March 30, 2011. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/175,807.

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.

April M. Wise
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7105820	2006-09-12	11/037,507	2005-01-18	03-029

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	/Paul R. Matri, Reg. # 63701/	Date (YYYY-MM-DD)	2010-10-29
Name	Paul Richard Matri	Registration Number	63701

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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www.uspto.gov

In re Patent No. 7105820
Issue Date: September 12,2006
Application No. 11037507
Filed: January 18,2005
Attorney Docket No. NJIT 010

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 29,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS TX 75202

MAILED
DEC 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,119,619	:	
Issued: 10/10/2006	:	
Application No. 11/037,527	:	NOTICE
Filed: 01/18/2005	:	
Attorney Docket No. 09AXI0002AC.51(013641.80)	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 30, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : March 24, 2011

Patent No. :7627695
Inventor :Peck. et al.
Patent Issued :Dec. 1, 2009
Title :NETWORK-BASED SYSTEM FOR CONFIGURING A PROGRAMMABLE HARDWARE :ELEMENT IN A SYSTEM USING HARDARE CONFIGURATION PROGRAMS :GENERATED BASED ON A USER SPECIFICATION

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.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the Title Page, Item (60) and (63) Related US Application Data; the printed data in the letters patent with respect to applicants request is considered in accordance with the records within the Patent and Trademark Office. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 and 323 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied.

To further consider your request regarding this matter, a request for reconsideration filed under 37 CFR 1.323 which includes the required Certificate of Corrrection fee of $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 1.322 should be submitted. Required documentation may include acknowledgement of receipt.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (571) 272-9005.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

Jeffrey C. Hood, Esq.
Meyerstons, Hood, Kivlin, Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767-0398

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Joseph E. PECK et al.	:	DECISION ON PETITION
Application No. 11/037,652	:	UNDER 37 CFR 1.78(a)(3)AND
Filed: January 18, 2005	:	REQUEST FOR CERTIFICATE OF
Attorney Docket No. 5150-65501	:	CORRECTION
	:	

This is a decision on the petition under 37 CFR 1.181, filed August 24, 2011,wich is being treated as a renewed 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/101,507, filed March 19, 2002, by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed January 18, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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.

As authorized, the $1,410.00 surcharge fee, previously paid April 29, 2009, and the $100 certificate of correction fee, have been charged to petitioner's Deposit Account No. 501505.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231.

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).

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
11/037,652	01/18/2005	2182	6838	5150-65501	26	4

CONFIRMATION NO. 6083

CORRECTED FILING RECEIPT

35690
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

OC000000049974202

Date Mailed: 09/30/2011

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)

Joseph E. Peck, Round Rock, TX;
Matthew Novacek, Austin, TX;
Hugo A. Andrade, Austin, TX;
Newton G. Petersen, Austin, TX;
Ganesh Ranganathan, Austin, TX;
Brian Sierer, Austin, TX;
John Pasquarette, Austin, TX;

Assignment For Published Patent Application

National Instruments Corporation

Power of Attorney:

David Rose--26223
Noel Kivlin--33929
Kevin Daffer--34146
Eric Meyertons--34876
Jeffrey Hood--35198

Domestic Priority data as claimed by applicant

This application is a CON of 10/101,507 03/19/2002 PAT 7,016,811
which is a CIP of 10/058,150 10/29/2001 PAT 7,085,670
which is a CIP of 10/034,565 10/19/2001 PAT 7,152,027
which is a CON of 09/229,695 01/13/1999 PAT 6,311,149
which claims benefit of 60/074,806 02/17/1998
and said 10/058,150 10/29/2001
claims benefit of 60/312,252 08/14/2001
and claims benefit of 60/313,136 08/17/2001

and said 10/101,507 03/19/2002
claims benefit of 60/312,359 08/15/2001

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: 10/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/037,652**

Projected Publication Date: None, application has issued.

Non-Publication Request: No

Early Publication Request: No
Title

NETWORK-BASED SYSTEM FOR CONFIGURING A PROGRAMMABLE HARDWARE ELEMENT IN A SYSTEM USING HARDWARE CONFIGURATION PROGRAMS GENERATED BASED ON A USER SPECIFICATION

Preliminary Class

710

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DAVID BEAUMONT ROBERTS JR.
3701 WOODSIDE RD.
GARNER NC 27529-2647

MAILED
OCT 19 2010
OFFICE OF PETITIONS

In re Application of :
David Beaumont Roberts, Jr. :
Application No. 11/037,819 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. :

This is in response to the communication, filed December 8, 2009, which is being treated as a petition under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 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).

On April 19, 2007, the Office mailed a final Office action, which set a three month shortened statutory period to reply. On May 15, 2007, an amendment was filed. On June 28, 2007, the Office mailed an Advisory Action Before the Filing of an Appeal Brief which refused entry of the amendment of May 15, 2007. The application became abandoned on July 20, 2007, for failure to submit a proper response to the final Office action. On November 29, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioner's request is being construed as a request that the Office withdraw the holding of abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

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 April 19, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 20, 2007.

A proper reply within the meaning of 37 CFR 1.113 to the final Office action of April 19, 2007 would have been: 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).

Since the amendment submitted May 15, 2007 did not prima facie place the application in condition for allowance, it was not a proper reply within the meaning of 37 CFR 1.113.

Moreover, an application becomes abandoned by law, as stated in 35 U.S.C. 133

> 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.

In view of the above, the petition is dismissed as holding of abandonment may not be withdrawn at this time as petitioner failed to timely submit a reply within the meaning of 37 CFR 1.113.

Additionally, it is noted that 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 provided. This two-month period is not extendable.

Accordingly, this petition under 37 CFR 1.181 is untimely.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 19, 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 (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).

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,798,401
Issued: September 21, 2010
Application No. 11/037,827
Filed: January 18, 2005
Attorney Docket No. **IV0782**

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION PURSUANT TO 37 C.F.R. § 1.705(d) filed on November 22, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 241 days to 529 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 102 days and the "B" delay period, the over three year period begins on January 18, 2008 and ends on September 21, 2010, the day the patent was issued. However, patentee fails to account for the filing of a Notice of Appeal on November 22, 2006. The 977 days of the over three year period therefore would be consumed by appellate review, beginning on November 22, 2006 and ending on September 6, 2007, the date the non-Final Office Action was mailed. The time for appellate review, 288 days, is excluded (977-288); thus the B delay is 689 days. *See* 35 U.S.C. § 154(b)(1)(B)(ii). The Office has also determined that the period of overlap is 56 days. As such, the patent term adjustment is 241 (102 "A delay days" + 689 "B delay days" (977-288) - 56 days overlap - 494 Applicant delay days) days, not 529 days.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

AUG 31 2011

OFFICE OF PETITIONS

Loren Brian Nelson
1505 State Highway 207
Ralls TX 79357

In re Application of :
Loren Brian NELSON : ON PETITION
Application No. 11/037,849 :
Filed: January 18, 2005 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 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 mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1) following the Notice of Appeal filed July 13, 2009. A petition for 2 months of extension fo time was filed September 8, 2009. As an appeal brief (and appeal brief fee) was not filed within the extended time period, 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 November 14, 2009. *See* MPEP 1215.04.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply or filing; (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 instant petition lacks item (1).

Regarding item (1), the instant petition does not include an appeal brief, or Request for Continued Examination. *See* MPEP 711.03(c)(II)(A)(2)(c).

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30AM to 5:30PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experience Primary Examiners who answer general questions concerning patent examining policy and procedure.

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, Virginia 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Telephone inquiries related to this decision may be directed to Robert DeWitty, Petitions Attorney, Office of Petitions at (571) 272-8427.

Anthony Knight
Director
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)
7163465	2007-01-16	11037856	2005-01-18	2103.104.P102

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Ellen Gonzales/	Date (YYYY-MM-DD)	2011-04-27
Name	Ellen Gonzales	Registration Number	44128

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.	7163465	:
Issue Date:	January 16,2007	
Application No.	11037856	:DECISION GRANTING PETITION
Filed:	January 18,2005	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	2103.104.P102	:

This is a decision on the electronic petition, filed April 27,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 27,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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P.O. Box 1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Application of
Vedat EYUBOGLU, et *al.*
Application No. 11/037,896
Filed: January 18, 2005
Attorney Docket No. **12144-0019001**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

AUG 30 2010

OFFICE OF PETITIONS

CLYDE I. COUGHENOUR
16607 SUTTON PLACE
WOODBRIDGE VA 32191

In re Patent No. 7,000,657	:	
Issue Date: February 21, 2006	:	
Application No. 11/037,929	:	DECISION ON REQUEST FOR REFUND
Filed: January 19, 2005	:	
Patentee(s): Douglas G. Thorpe et al	:	

This is a decision on the Request For Refund filed August 16, 2010.

The request is **DISMISSED**.

The request for refund submitted on August 16, 2010, is not signed. Additionally, Applicant request a refund in the amount of $1,250.00 for payment of the maintenance fees. However, a review of Office finance records for the above patent show the current balance of $1,150.00 ($450.00 + $700.00) paid on April 21, 2010. Therefore, applicant may request a refund of $1,150.00 and **not** $1,250.00.

In view of the above, the request for refund is dismissed at this time.

Applicant was advised in the decision mailed July 19, 2010, of a change of address.

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:

MR. DOUGLAS G. THORPE
108 FOX RUN TRAIL
MOUNT STERLING, KY 40353

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bruce Fardanesh
New York Power Authority
123 Main St. E-6th
White Plains NY 10601

MAILED
APR 07 2011
OFFICE OF PETITIONS

In re Application of :
Fardanesh :
Application No.: 11/037,931 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No: 171 P 012A :

This is in response to the petition under 37 CFR 1.137(b) filed February 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 1.137(b)."

This application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed April 2, 2008. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on August 3, 2008 A Notice of Abandonment was mailed on December 4, 2008.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Examiner Nithya Janakirman has reviewed the amendment filed February 3, 2011, and determined that the amendment does not place the application in condition for allowance. The petition must, therefore, be dismissed. Either an amendment that places the application in condition for allowance, a Request for Continued Examination and the fee required, or a Notice of Appeal must accompany the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Questions regarding the amendment to be filed with the renewed petition must be addressed to Examiner Janakirman. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Bruce Fardanesh
New York Power Authority
123 Main St. E-6th
White Plains NY 10601

MAILED

SEP 21 2011

OFFICE OF PETITIONS

In re Application of

Fardanesh

Application No. 11/037,931

Filed: January 18, 2005

Attorney Docket No. **171 P 012A**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed April 2, 2008. 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 July 3, 2008. A Notice of Abandonment was mailed December 4, 2008.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (2) above.

The fee for the instant petition is currently $810.00 for a small entity or $1,620.00 for a large entity. If the remainder of the fee is paid after **Monday, September 26, 2011**, the fee for the instant petition will rise to $930.00 for a small entity and $1,860.00 for a large entity. The amount of $750.00 is being held currently by the Office. The renewed petition must be accompanied by an additional $60.00 if paid before midnight Sunday, September 25, 2011. If paid after Monday September 26, 2011, the petition must be accompanied by an additional $180.00 to be considered grantable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bruce Fardanesh
New York Power Authority
123 Main St. E-6th
White Plains NY 10601

MAILED

OCT 19 2011

OFFICE OF PETITIONS

In re Application of

Fardanesh

Application No. 11/037,931

Filed: January 18, 2005

Attorney Docket No. **171 P 012A**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 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 April 2, 2008. 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 July 3, 2008. A Notice of Abandonment was mailed December 4, 2008.

The Request for Continued Examination filed May 16, 2011, is noted.

The application is being forwarded to Technology Center 2100, GAU 2123 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

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/038,289	GAO ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)						
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435				6.1	435	6.11	7.1	7.71	7.72	7.9	7.91	
INTERNATIONAL CLASSIFICATION					536	23.1						
C	1	2	Q	1/68	424	130.1						
G	0	1	N	33/53								
G	0	1	N	33/542								
C	0	7	H	21/02								
A	6	1	K	39/395								

(Assistant Examiner) (Date)	/Frank W Lu/ 3/23/2012	Total Claims Allowed: 20
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: 3

☐ 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	19	31		61		91		121		151		181
2	2	20	32		62		92		122		152		182
3	3	16	33		63		93		123		153		183
4	4	17	34		64		94		124		154		184
5	5		35		65		95		125		155		185
6	6		36		66		96		126		156		186
7	7		37		67		97		127		157		187
8	8		38		68		98		128		158		188
9	9		39		69		99		129		159		189
10	10		40		70		100		130		160		190
11	11		41		71		101		131		161		191
12	12		42		72		102		132		162		192
13	13		43		73		103		133		163		193
14	14		44		74		104		134		164		194
15	15		45		75		105		135		165		195
18	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20110324

DATE : **3-23-11**

TO SPE OF : ART UNIT **2857**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11038340** Patent No.: **7826981**

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: The Request for Certificate of Correction filed on March 17, 2011 has been approved. /MN/

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner, Art Unit 2857

SPE

2857

Art Unit

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01-14-12

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/038349 Patent No.: 7201033

CofC mailroom date: 12-21-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE Kevin Will Art Unit 2856

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/11/11

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 11038470 Patent No.: 7685505

CofC mailroom date: 5/19/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Note: Claim 2

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: _____

_____

_____

_____

_____

2112

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

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

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of :
Kevin Sahr :
Application No. 11/038,484 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 8073-83480-01

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 August 31, 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 amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SNR DENTON US LLP - EDDA TECHNOLOGY, INC.
P.O. BOX 061080
Chicago IL 60606-1080

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Li Fan et al.	:	
Application No. 11/038,491	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. **10000663-0093**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 January 19, 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). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 3777 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions