SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/08/11

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 11038596 Patent No.: 7711695

CofC mailroom date: 06/27/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

- ☒ **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: _____

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2162

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/08/11

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 11038596 Patent No.: 7711695

CofC mailroom date: 06/27/11

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

FOR PAPER FILES:

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

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

Note:

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

_____

_____

_____

_____

_____ 2162

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.

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

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application No. 11/038,818	:	
Zur et al.	:	DECISION ON
Filed: January 20, 2005	:	REQUEST FOR
Attorney Docket No. 15432US02	:	RECONSIDERATION OF
Title: SYSTEM AND METHOD FOR	:	PATENT TERM ADJUSTMENT
SUPPORTING MULTIPLE USERS	:	

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed January 19, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, two hundred and ninety-five (1295) days, not five hundred and fifty-nine (559) 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.

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

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

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

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

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

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.

It is noted in passing that Applicant disputes the manner in which the Office determines when the RCE-cutoff should commence. The Office maintains that the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, and the over three-year period begins on January 21, 2008 and ends on April 7, 2010, *the day before the RCE was filed*.

Patentee argues that the day on which the RCE was filed should be included in the period of B-delay. The Office holds that the day on which the RCE was filed 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 <u>beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed</u> (emphasis added) and ending on the date the patent was issued;

It follows that the proper manner of calculating the RCE-cutoff is to terminate the over three-year period on the day before the RCE was filed, since 37 C.F.R. § 1.703(b)(1) expressly states that the day on which the RCE was filed is not included in the over three-year period.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/038,920	01/18/2005	Zhongliang Tang	BIOE-001/00US 023276-2010	9011

58249 7590 12/09/2011
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

EXAMINER
YU, MELANIE J

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
12/09/2011	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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DEC 0 9 2011

In re Application of Zhongliang Tang, et al. Serial No. 11/038920/Pat No. 8076127 Filed: January 18, 2005 For: RECOVERY OF RARE CELLS USING A MICROCHANNEL APPARATUS WITH PATTERNED POSTS	: : : : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313(b).

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to the Interference Process Specialist, Cecilia Tsang at (571) 272-0562.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 – SIXTH STREET, NW
WASHINGTON, DC 20001

cc: Publications, Scanning

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

Date : December 8, 2011

To : Director, Office of Publication and Dissemination

From : Director, Technology Center 1600

Subject : Withdrawal from Issue of

Applicant	:	Zhongliang TANG, et al.
Application Number	:	11/038920
Filed	:	January 18, 2005

The above-identified application has been assigned Patent No. 8076127 and an issue date of December 13, 2011.

It is hereby directed that this application be withdrawn from issue at the request of the Director, Technology Center 1600.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 13, 2011:

> "All reference to Patent No. 8076127, Zhongliang Tang, et al of San Diego, California, for 'RECOVERY OF RARE CELLS USING A MICROCHANNEL APPARATUS WITH PATTERNED POSTS' appearing in the Official Gazette of December 13, 2011 should be deleted since no patent was granted."

This application will be forwarded to Technology Center 1600.

George C. Elliott

George C. Elliott, 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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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,690,312	:	
Issue Date: April 6, 2010	:	
Application No. 11/039,102	:	ON PETITION
Filed: January 20, 2005	:	
Attorney Docket No. 4616-045570	:	

This is a decision on the petition filed June 16, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7099. 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.

David Bucci
Petitions Examiner
Office of Petitions

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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SEP 08 2010

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:
Faris	: DECISION ON PETITION UNDER
Application No. 11/039,119	: 37 CFR 1.137(b) and 37 CFR 1.705(b)
Filed: January 19, 2005	:
For: 21486-024 NATL DIV	:

This decision is in response to the petition under 37 CFR 1.137(b), filed June 18, 2010 and the petition under 37 CFR 1.705(b) filed July 22, 2009.

DECISION UNDER 37 CFR 1.137(b)

The application became abandoned October 5, 2007 for failure to timely submit a proper reply to the restriction requirement mailed April 4, 2007. The restriction requirement set a one month shortened statutory period of time for reply. A five month petition for extension for time under 37 CFR 1.136(a) was filed, extending the period of reply from May 4, 2007 to October 4, 2007. Notice of Abandonment was mailed May 27, 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 above identified application has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, the petition under 37 CFR 1.137(b) is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.705(b)

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed April 22, 2009 stated that the patent term adjustment (PTA) to date is 104 days. The application for patent term adjustment was timely filed July 22, 2009.

However, prior to a decision on the application for patent term adjustment being rendered, on May 18, 2010, the application was withdrawn from issue because it was found that the application had gone abandoned on October 5, 2007. As a result of the withdrawal from issue on May 18, 2010, prosecution was reopened.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicants must submit a timely application for patent term adjustment in response to any new Notice of Allowance (or may submit another candor letter). 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.

Furthermore, the application for patent term adjustment is not properly signed within the meaning of 37 CFR 1.34 which sets forth that "[w]hen a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required." Emphasis added. Practitioner herein fails to state her name.

Applicant may request a refund of the $200.00 patent term adjustment application fee by writing to the Finance Office, Refund Section. Any request should include a copy of the instant petition.

In lieu thereof, should the application be re-allowed and applicant still desires consideration pursuant to 37 CFR 1.705(b), practitioner may request to have the previously submitted application fee applied to any newly submitted and properly executed application for patent term adjustment pursuant to 37 CFR 1.705(b).

Technology Center AU 1633 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for further processing by the examiner.

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

DEC 15 2011

OFFICE OF PETITIONS

JACQUELYN R. SIMONI
1 S. 669 BIRCHBROOK COURT
GLEN ELLYN, IL 60137

In re Application of Simoni :
Application No. 11/039,210 : Decision on Petition
Filing Date: January 18, 2005 :
Attorney Docket No. Dog Flashlight Kit :

This is a decision on the petition filed November 28, 2011, 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 titled "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 mailed a Notice of Allowance on August 4, 2011.

The Office mailed a Notice to File Corrected Application Papers on September 7, 2011. The notice indicated, with respect to Figure 24: "Data, a reference number, or part of the drawing is truncated or missing, or a lead has no reference number."

The September 7, 2011 notice stated the period for reply to the notice was a reply was the longer of the time period remaining to respond to the Notice of Allowance or two months from the mailing date of the September 7, 2011 notice. The notice also stated the time period to reply to the notice was non-extendable. Therefore, a reply to the notice was due on or before November 7, 2011.

The issue fee and publication fee were timely paid September 12, 2011.

Petitioner did not file a response to the September 7, 2011 notice. As a result, the application became abandoned on November 8, 2011, and a Notice of Abandonment was mailed November 21, 2011.

The instant petition was filed November 28, 2011. The petition indicates that Petitioner received the November 7, 2011 notice and wanted to save money by fixing the problem herself but was too busy to take such action. Petitioner states she plans to file a response to the September 7, 2011 notice by the end of the year.

Discussion

A grantable petition to withdraw the holding of abandonment must either establish the Office action or notice at issue was not received at the address of record or establish a reply was timely filed in response to the Office action or notice. The petition states Petitioner received the September 7, 2011, and Petitioner indicates a reply was not timely filed in response to the notice. Therefore, the record fails to establish withdrawal of the holding of abandonment is warranted.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (reply to the September 7, 2011 notice), the required petition fee ($930 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a PDF "fillable" petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064.pdf.

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

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 8,031,793 B2
Ser. No. : 11/039,274
Inventor(s) : Ionescu et al.
Issued : Oct.4, 2011
Title : APPARATUS USING CONCATENATIONS OF SIGNAL-SPACE CODES FOR JOINTLY ENCODING ACROSS MULIPLE TRANSMIT ANTENNAS, AND EMPLOYING COORDINATE INTERLEAVING
Docket No. : 873.0146.U1(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 and/or 1.323.

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/11

TO SPE OF : ART UNIT 2467

SUBJECT : Request for Certificate of Correction for Appl. No.: 11039369 Patent No.: 7782872

CofC mailroom date: 03/18/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

[redacted]

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: Internet is misspelled in claims 13 and 27 is USP 7,782,872, but spelled correctly in Rule 312 Amendment dated June 24, 2010 (claims 53 and 67 in the Rule 312 Amendment, respectively). Also, claim 28 in USP 7,782,872 should read "hop-by-hop" as it depends from claim 27— which uses the "hop-by-hop" claim language.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Pankaj Kumar/ _2467__

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/7/11

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/039,492 Patent No. 7,489,815

CofC mailroom date 4/1/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The request is approved.

/Bhavesh Mehta/ SPE AU2624
SPE

2624
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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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,459,498 :
Issue Date: December 2, 2008 :
Application No. 11/039,517 : ON PETITION
Filed: January 19, 2005 :
Attorney Docket No. FL0256USNA :

This is a decision on the petition filed February 5, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignees 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 (571) 272-4200.

In light of the issuance of the certificate of correction on June 22, 2010, issuance of a new certificate of correction is not required.

Charlema Grant
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

MAILED
NOV 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,416,005	:	
Issue Date: August 26, 2008	:	
Application No. 11/039,551	:	NOTICE
Filed: January 20, 2005	:	
Attorney Docket No. 30610.23	:	

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

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

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

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

As indicated above, the submission filed September 23, 2011, does not include a proper itemization. In this regard, the filing fee should be further itemized to include the filing fee, search and examination fees, as indicated above.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
DEC 12 2011
OFFICE OF PETITIONS

COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

In re Patent No. 7,416,005	:	
Issue Date: August 26, 2008	:	
Application No. 11/039,551	:	NOTICE
Filed: January 20, 2005	:	
Attorney Docket No. 30610.23	:	

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/039,629	01/20/2005	Sanjay Bhanot	RTS-0532US	1433

72984 7590 10/04/2011
JONES DAY for
Isis Pharmaceuticals, Inc.
222 East 41st Street
New York, NY 10017-6702

EXAMINER
SHIN, DANA H

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
10/04/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 0 4 2011

JONES DAY for
Isis Pharmaceuticals, Inc.
222 East 41st Street
New York NY 10017-6702

In re Application of:
Bhanot et al.
Serial No.: 11/039,629
Filed: January 20, 2005
Attorney Docket No.: **RTS-0532US**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed September 22, 2011, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests "Pursuant to 37 C.F.R. § 1.59, Applicants hereby file a petition to expunge statements in the Advisory Action dated December 3, 2009, and the Office Action dated March 22, 2011. As discussed with Supervisory Examiner Heather Calamita, Training Quality Assurance Specialist Bennett Celsa and Examiner Dana Shin in the interview on June 8, 2011, Applicants respectfully submit that the sequence regions set forth in the Advisory Action dated December 3, 2009, and the Office Action dated March 22, 2011, should not be part of the prosecution record and should therefore be expunged from the record. Applicants appreciate the advice from Supervisory Examiner Calamita and Training Quality Assurance Specialist Celsa that these statements should be expunged from the record by filing a Petition to Expunge under 37 C.F.R. § 1.59."

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

The examiner is instructed to redact the Advisory Action dated December 3, 2009, and the Office Action dated March 22, 2011 in the manner set forth in the petition of September 22, 2011 and remail and rescan the redacted Office actions. There will be no restarted statutory period for response.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

Doc Code: PET.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	11039645
Filing Date	19-Jan-2005
First Named Inventor	Hilliard Siegel
Art Unit	3718
Examiner Name	PIERRE ELISCA
Attorney Docket Number	AM2 - 0575US
Title	METHOD AND SYSTEM FOR PROVIDING ANNOTATIONS OF A DIGITAL WORK

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	/Jason D. Mehigan/
Name	Jason D. Mehigan
Registration Number	64307

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 21,2011

In re Application of :

Hilliard Siegel

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11039645

Filed : 19-Jan-2005

Attorney Docket No : AM2 - 0575US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 21,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

This application file is being referred to Technology Center AU 3718 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

MAILED

APR 14 2011

OFFICE OF PETITIONS

In re Patent No. **7,263,789** :
Issue Date: September 4, 2007 :
Application No. 11/039,669 : NOTICE UNDER 37 CFR 1.28(c)
Filed: January 19, 2005 :
Attorney Docket No. **232188** :

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

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

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

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kendal M. Sheets appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Sheets desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Sheets, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

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

cc: **KENDAL M. SHEETS**
CPA GLOBAL
2318 MILL ROAD, SUITE 12 FLOOR
ALEXANDRIA, VA 22314

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT NUMBER: 7,263,789

ISSUE DATE: September 4, 2007

APPLICATION SER. NUMBER: 11/039,669

FILING DATE: January 19, 2005

TITLE: Plow assembly with adjustable trip mechanism

Current Date: February 23, 2011

REQUEST FOR CORRECTION OF PAYMENT DEFICIENCY UNDER 37 C.F.R. 1.28 (c)

Commissioner for Patents
Mail Stop M Correspondence
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Owner of above-listed U.S. Patent No. 7,263,789 respectfully requests that a payment for deficiency owed regarding the 3.5-year maintenance fee be accepted by the Office. The patent maintenance fee previously paid for this matter on February 10, 2011 was paid in good faith based on a small entity status. However, due to an oversight the 3.5-year patent maintenance fee should have been paid based upon large entity status.

The total deficiency currently owed is $490.00. The itemization of the deficiency payment is as follows:

02/25/2011 MBANGURA 00000825 504623 7263789
01 FC:1599 490.00 DA

U.S. Pat. No. 7263789
Ser. No. 11/039,669
Date: February 23, 2011

Current Maint. Fee Due at 3.5 years for Large Entity:	$980.00
Maint. Fee Previously Paid as Small Entity:	$490.00
TOTAL DEFICIENCY OWED:	**$490.00**

A request to CHANGE OF ENTITY STATUS PURSUANT TO 37 C.F.R. §1.27 (g)(2) has been submitted herewith.

Owner of the above-listed patent respectfully requests the Office to accept this request to increase the 3.5 year maintenance fee to large entity based upon compliance herein with 37CFR 1.28 (c). The Commissioner is hereby authorized to charge $490.00, the deficiency owed, and any additional fee that may be due or credit any overpayment to Representative's Deposit Account No. 50-4623.

Respectfully submitted,
/Kendal M. Sheets/

Kendal M. Sheets
Reg. No. 47, 077
Authorized Representative
CPA Global
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314
(703) 236-2994
ksheets@cpaglobal.com

Certification of Facsimile Transmission

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-6500 on the date shown below.

DATE: February 23, 2011 SIGNATURE: /Kendal M. Sheets/

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,749,961	: DECISION ON REQUEST FOR
Llinas-Brunet et al.	: RECONSIDERATION OF
Issue Date: June 6, 2010	: PATENT TERM ADJUSTMENT
Application No. 11/039,698	:
Filed: January 19, 2005	:
Attorney Docket No.13-0125	:

This is a decision on the petition filed on July 23, 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 three hundred and sixty-one (361) 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 July 6, 2010, the above-identified application matured into U.S. Patent No. 7,749,961, with a revised patent term of 660 days. By the instant petition, patentees assert that the patent term should be adjusted by 130 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). It is noted that patentees failed to account for the filing of the notice of appeal on January 29, 2008. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 121 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, January 29, 2008, and ending on the day before the date the Request for Continued Examination was filed, May 28, 2008. Thus, the B delay is 9 days (130 – 121). Accordingly, the patent term adjustment is 240 days (426 days of A delay + 9 days of B delay – 0 days of overlap - 195 days of applicant delay).
In view thereof, the patent term adjustment of 660 days indicated in the patent is correct.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under

35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

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

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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.
11/039,861	01/24/2005	Chae-Whan Lim	48177	3157

1609 7590 11/15/2010
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

EXAMINER
CORBO, NICHOLAS T

ART UNIT	PAPER NUMBER
2427	

MAIL DATE	DELIVERY MODE
11/15/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

MAILED

NOV 15 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Chae-Whan Lim et al.
Application No. 11/039,861
Filed: January, 24 2005
For: DEVICE AND METHOD FOR OUTPUTTING DATA OF A WIRELESS TERMINAL TO AN EXTERNAL DEVICE

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

This is a decision on the petition filed October 8, 2010 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed July 12, 2010.

In the petition, Applicant's counsel cited MPEP 706.07 (a) and alleged that the finality of the office action was improper because the use of Rakib and Palin is a new ground of rejection introduced by the Examiner that was not necessitated by Applicant's amendment of the claim.

A review of MPEP 706.07(a) clearly shows that a second action on the merits shall be made final, except for where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant.

RELEVANT CLAIM INFORMATION

Claim 1- filed 12/29/2009 and considered in the 1/26/10 non-final rejection follows:

1. A **media device** for outputting data stored in a wireless terminal to an external device through communication with the wireless terminal, **the media device** comprising:
a radio frequency (RF) unit for communicating with the wireless terminal;
a control unit for
(1) detecting a command transmitted from the wireless terminal,
(2) **decoding multimedia** data transmitted from the wireless terminal according to the command and
(3) controlling transmission of **the decoded multimedia data** to the external device according to the command if the command is a play command for instructing playing the decoded multimedia data, and
(4) stopping transmitting the decoded multimedia data to the external device if the command is for instructing performing an operation requiring discontinuing current playing of the decoded multimedia data; and
an output unit for transmitting the decoded multimedia data to the external device.

Claim 1- amended on 4/23/10 and considered in the Final Rejection follows:

1. A **media device** for outputting data stored in a wireless terminal to an external device through communication with the wireless terminal, **the media device** comprising:
a radio frequency (RF) unit for communicating with the wireless terminal;
a control unit for
(1) detecting a command transmitted from the wireless terminal,
(2) **decoding multimedia** data transmitted from the wireless terminal according to the command and
(3) controlling transmission of **the decoded multimedia data <u>from the media device</u>** to the external device according to the command if the command is a play command for instructing playing the decoded multimedia data, and
(4) stopping transmitting the decoded multimedia data to the external device if the command is for instructing performing an operation requiring discontinuing current playing of the decoded multimedia data; and
an output unit for transmitting the decoded multimedia data to the external device.

DECISION

A review of the file record reveals that claim 1, considered in the 1/26/10 non-final rejection, calls for a media device comprising a control unit that (2) decodes multimedia data transmitted from the wireless terminal and (3) controls transmission of the decoded multimedia data. In other words, the control unit that is inside the media device decodes the multimedia data. Therefore, amending the claim to recite "controlling transmission of the decoded multimedia data <u>from the media device</u>" is redundant because the decoded multimedia data is already present in the media device via the control unit. The Examiner's final rejection introduced a new ground of rejection that was not necessitated by amendment of the application by applicant.

Accordingly, the petition is **<u>GRANTED.</u>**

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

Timothy P. Callahan
Director Technology Center 2400
Networking, Multiplexing, Cable and Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-30-11

TO SPE OF : ART UNIT 2478

SUBJECT : Request for Certificate of Correction for Appl. No.: 11039944 Patent No.: 7886025

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: _____

_____

_____

_____

_____

SPE — 2478 Art Unit

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

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

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

Attorney Docket Number: 03EDI37252643	
Application Number: 11/040,074	Filing Date (or 371(b) or (f) Date): JANUARY 21, 2005
Patent Number: 7,659,498	Issue Date: FEBRUARY 9, 2010
First Named Inventor: Matthew PURCELL	
Title: IMAGE SENSOR POWER SUPPLY INCLUDING AT LEAST ONE RIPPLE REJECTION CIRCUIT FOR REDUCING VARIATIONS IN THE SUPPLY VOLTAGE	

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

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

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

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

Signature	Date AUGUST 6, 2010
Name (Print/Typed) PAUL J. DITMYER	Registration Number 40,455

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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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Mail Date: 08/16/2010

Applicant	: Matthew Purcell	: DECISION ON REQUEST FOR
Patent Number	: 7659498	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/040,074	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **7** 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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MAR 25 2011
OFFICE OF PETITIONS

Cooley Godward LLP
1200 19th Street N.W.
Suite 500
Washington DC 20036

In re Patent of Velander, et al. :
Patent No. 7,435,869 :
Issue Date: October 14, 2008 : ON PETITION
Application No. 11/040,117 :
Filed: January 24, 2005 :
Attorney Docket No. 030523-0147 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R.§ §1.705(d) & 1.183," filed November 30, 2010, requesting that the revised 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 seventy-four (674) days. This is also a decision on the request that the requirements of 37 CFR § 1.705(d) be waived to permit reconsideration of the patent term adjustment in the above-identified patent more than two months after the issuance of the patent. Alternatively, patentees request that the requirements of the *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)*(the "Interim Rules") be waived to permit the reconsideration of the patent term adjustment of the above-identified patent later than 180 days after its issuance.

Patentees request the correction of patent term adjustment on the basis that the Office took in excess of three years to issue the patent and 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 petition under 37 CFR 1.183 to waive 37 CFR 1.705(d) to permit reconsideration of the patent term adjustment ("PTA") more than 2 months after the patent's issuance is hereby **dismissed**.

The petition under 37 CFR 1.183 to waive the Interim Rules to permit the reconsideration of the PTA of the above-identified patent later than 180 days after its issuance is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

37 CFR 1.705(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.

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. § 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 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 conclude its PTA determination.

On October 14, 2008, the above-identified application matured into U.S. Patent No. 7,435,869 with a revised patent term adjustment of 410 days. A request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent, on December 12, 2008. See 1.705(d).

On September 28, 2009, the Office mailed a decision on petition, which made no change to the patent term adjustment of 410 days.

37 CFR 1.181(f) states, in pertinent part: … Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided.

No request for reconsideration was filed within two months of the September 28, 2009 mail date of the petition decision. The present request for reconsideration of the September 28, 2009 decision on petition was filed <u>more than a year later</u>, on November 30, 2010.

Petitioners argue that the lengthy delay in filing a request for reconsideration of the September 28, 2009 decision should be excused because the inability to respond within 2 months of the mail date of the petition decision was due to the Office's mishandling of undeliverable mail with a valid forwarding address in the record. Petitioners request waiver of the 37 CFR 1.705(d) to permit the reconsideration of the PTA more than 2 months after the patent's issue date.

In order for a petition under 37 CFR 1.183 to be granted, petitioners must demonstrate the existence of an extraordinary situation where justice requires waiver of one or more federal regulations. It is the responsibility of the Commissioner to determine the definitions of the terms "extraordinary" and "as justice requires" as the terms are used in 37 CFR 1.183.[1]

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[1] See Bowles, Price Administrator v. Seminole Rock & Sand Co., 325 U.S. 410, 413-414, 89 L. Ed. 1700, 1702, 65 S. Ct. 1215, 1217 (1945) ("Since this involves the interpretation of an administrative regulation a court must necessarily look to the

The Commissioner drafted the federal regulations which may be waived including 37 CFR 1.183. The Commissioner is the party responsible for determining when a party has demonstrated that an "extraordinary" situation exists such that "justice requires" waiver of a federal regulation.

In determining when waiver is appropriate, the Office *may* consider the circumstances when courts have exercised their equitable powers to waive requirements of a statute or regulation on behalf of a party. Courts are permitted to waive certain statutory requirements such as time limits.[2] Courts, in determining when waiver is proper, have required due diligence and required more than a "garden variety claim of excusable neglect."[3] The Federal Circuit has stated, "Equitable powers . . . should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence."[4]

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administrative construction of the regulation if the meaning of the words used is in doubt. . . . [T]he ultimate criterion is the administrative interpretation, which becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation.")

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")).

[2] See Wood-Ivey Sys. Corp. v United States, 4 F.3d 961, 964 (Fed. Cir. 1993) (Plager, J., concurring) ("Since Irwin [v. Department of Veterans Affairs, 498 U.S. 89, 112 L. Ed. 2d 435, 111 S. Ct. 453, (1990)], compliance with statutory time limits is no longer jurisdictional, in the old sense that when a Congressionally specified time limit had expired a court had no power to entertain the case. The presumption is now to the contrary. The court has jurisdiction to entertain the suit and to determine on the merits if equitable relief from the time bar is warranted.")

[3] See Wiggins v. State Farm Fire and Casualty Co., 153 F. Supp. 2d 16, 21 (D. D.C. 2001) ("A court can equitably toll the statute of limitations . . . plaintiff will not be allowed extra time to file unless he has exercised due diligence, and the plaintiff's excuse must be more than a 'garden variety claim of excusable neglect.'") (citations omitted).

[4] U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983) (citations omitted) ("Lockheed had several means at its disposal which it could have employed to

Factors which may not justify tolling include: pro se status, illiteracy, deafness, lack of legal training, lack of knowledge of the law, lack of knowledge of a legal process, and lack of legal representation.[5]

An attorney's lack of knowledge, misinterpretation of a law, miscalculation of a time period, and failure to exercise due care and diligence will not justify waiver.[6]

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guarantee compliance with the regulation, yet it neglected to use any of them. Equitable powers . . . should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence."); See also Grymes v. Sanders et al., 93 U.S. 55, 61; 23 L. Ed. 798, 801 (1876) ("Mistake, to be available in equity, must not have arisen from negligence. . . . The party complaining must have exercised at least the degree of diligence 'which may be fairly expected from a reasonable person.') (citing Kerr on Fraud and Mistake, 407); Garcia v. Office of Personnel Management, 2001 U.S. App. LEXIS 21616, 6 (Fed. Cir. 2001) ("Equity will not intervene, however, to protect a claimant from his or her own failure to exercise due diligence in preserving their legal rights.") (citing Irwin v. Department of Veterans Affairs, 498 U.S. 89, 95 (1990)); Goetz & Goetz v. Secretary of Health and Human Services, 2001 U.S. App. LEXIS 943, 5 (Fed. Cir. 2001) ("the special master's finding of a lack of due diligence was not arbitrary, capricious, or an abuse of discretion, and precludes the application of equitable tolling.") (citing Baldwin County Welcome Ctr. V. Brown, 466 U.S. 147, 151, 80 L. Ed. 2d 196, 104 S. Ct. 1723 (1984) which states, "One who fails to act diligently cannot invoke equitable principles to excuse their lack of diligence.")

[5] See Felder v. Johnson, 204 F.3d 168 171-172 (5th Cir. 2000) (Pro se status is not "rare and exceptional" circumstance, but is typical of those bringing a 28 U.S.C. § 2254 claim. "Mere ignorance of the law or lack of knowledge of filing deadlines does not justify equitable tolling or other exceptions to a law's requirements.") (citing United States v. Flores, 981 F.2d 231, 236 (5th Cir. 1993) as "holding pro se status, illiteracy, deafness, and lack of legal training are not external factors excusing abuse of the writ."); citing Barrow v. New Orleans S.S. Ass'n, 932 F.2d 473, 478 (5th Cir. 1991) as "holding equitable tolling . . . within the Age Discrimination in Employment Act not warranted by plaintiff's unfamiliarity with legal process, his lack of representation, or his ignorance of his legal rights." (other citations omitted)).

[6] See Harris v. Hutchinson, 209 F.3d 325, 330-331 (4th Cir. 2000) (Plaintiff argues that he relied on "negligent and erroneous advice" of his attorney. Attorney agrees his advice was erroneous. The court holds, "[A] mistake by a party's counsel in interpreting a statute of limitations does not present the extraordinary circumstance beyond the party's control where equity should step in to give the party the benefit of his erroneous understanding.") (citing Taliani v. Chrans, 189 F.3d 597, 598 (7th Cir. 1999) as "holding that a lawyer's miscalculation of a limitations period is not a valid basis for equitable tolling."; citing Sandvik v. United States, 177 F.3d 1269, 1272 (11th Cir. 1999) (per curiam) as "refusing to toll the limitations period where the prisoner's delay was assertedly the result of a lawyer's decision to mail the petition by ordinary mail rather than to use some form of expedited delivery."; citing Gilbert v. Secretary of Health and Human Services, 51 F.3d 254, 257 (Fed. Cir. 1995) as "holding that a lawyer's mistake is not a valid basis for equitable tolling."; other citations omitted.)

A party's inadvertent failure to comply with the requirements of a rule is simply not an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183.[7]

Turning to the patent at hand, patentees failed to inform the Office of a current correspondence address. Petitioners have not provided acceptable, persuasive evidence that a proper change of address for this patent was filed prior to September 28, 2009, the mail date of the decision on petition.[8] Therefore, the Office mailed the September 28, 2009 petition decision to the last address on record, which was not up-to-date. An applicant/patentee is responsible for specifying a correct correspondence address. A delay caused by the failure on the part of the petitioners to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995). As stated above, an attorney's failure to exercise due care will not justify waiver.

There is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the rules.

Since the petition lacks a showing that this is an extraordinary situation, the petition under 37 CFR 1.183 to waive 37 CFR 1.705(d) is dismissed.

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[7] See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce Express Mail customer receipt or any other evidence that application was actually deposited with USPS as Express Mail), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Vincent v. Mossinghoff, 230 USPQ 621 (D.D.C. 1985) (Misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); In re Chicago Historical Antique Automobile Museum, Inc., 197 USPQ 289 (Comm'r Pats. 1978) (Since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

[8] The PTA petition, dated December 12, 2008, listed the new address. However, the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made is not proper notification of a change in correspondence address MPEP 711.03(c).

Petitioners request waiver under 37 CFR 1.183 of the Interim Rules. However, as discussed above, the 180-day period in 35 U.S.C. § 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination. The present request to waive the Interim Rules to permit the reconsideration of the PTA of the '869 Patent beyond 180 days after the patent issued is dismissed.

As the present request for reconsideration petition was not filed within two months of the mailing date of the decision from which relief is requested, it is dismissed as untimely filed. 37 CFR 1.181(f). Patentees' failure to inform the Office of a valid correspondence address is not an extraordinary situation in which "justice requires" suspension of the rules. Even if the present petition were considered an initial request under 37 CFR 1.705(d) (not a reconsideration of the September 28, 2009 petition decision), it would be dismissed because it was not filed within 180 days of the date the patent issued.

The Office acknowledges receipt of the $400 fee required for consideration of the petition under 37 CFR 1.183.

Prior receipt of the $200 fee for consideration of the request for reconsideration of patent term adjustment is acknowledged. The $200.00 fee submitted with the present petition will be credited to petitioners' deposit account, as only one petition fee is required.

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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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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In re Patent No. 7,840,005	:	
Issue Date: 11/23/2010	:	
Application Number: 11/040,168	:	ON PETITION
Filing or 371(c) Date: 01/20/2005	:	
Attorney Docket Number: P1058L	:	

This is a decision on the request under 37 CFR 3.81(b),[1] filed on June 10, 2011, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Receipt of the petition fee of $130.00 and certificate of correction fee of $100.00 is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 3/14/2011

TO SPE OF : ART UNIT 2192

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/040185 Patent No.: 7818734B2

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

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: Do not apply insert, new, claim 18 at "Column 15, line 61, Below "Claim 17" insert..."

TUAN DAM
SUPERVISORY PATENT EXAMINER
SPE

2192
Art Unit

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DEPARTMENT OF THE NAVY
OFFICE OF COUNSEL
SUITE 103
3824 STRAUSS AVE.
INDIAN HEAD, MD 20640-5152

In re Patent No. 7,159,442	:	
Issue Date: January 9, 2007	:	
Application No.: 11/040,300	:	ON PETITION
Filed: January 6, 2005	:	
Attorney Docket No.: 84,847	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 23, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 9, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/2/10

Paper No.: —

TO SPE OF : ART UNIT 2194

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/040331 Patent No.: 7552452 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: _____

HYUNG S. SOUGH
SUPERVISORY PATENT EXAMINER

11/09/10

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/9/2010

Patent No. :7589616
Inventor(s) :Klatsmanyi et al.
Issued :9/15/2009
Title :MOBILE DEVICES INCLUDING RFID TAG READERS
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 claims 1 & 7 is printed in accordance with the record please show evidence of supporting data or amendment. 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

DOUGLAS W. SWARTZ
1560 BROADWAY SUITE 1200
DENVER, CO 80202-5141

HR

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OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

In re Application of	:
Stephen Mansfield et al	:
Application No. 11/040,390	: DECISION ON PETITION
Filed: January 21, 2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 43799-220374	:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 11, 2010 and supplemented on August 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 **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. 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 2166 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/040,390	01/21/2005	2166	4011	43799-220374	19	3

CONFIRMATION NO. 3531

CORRECTED FILING RECEIPT

26694
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

OC000000043057828

Date Mailed: 08/16/2010

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

Applicant(s)

Stephen Mansfield, Lexington, KY;
Patrick Hanna, Lexington, KY;

Power of Attorney: The patent practitioners associated with Customer Number 26694

Domestic Priority data as claimed by applicant

This application is a CON of 10/503,205 11/29/2004 ABN
which is a 371 of PCT/US03/02876 01/31/2003
which claims benefit of 60/352,591 01/31/2002
This application 11/040,390
is a CIP of 09/847,999 05/04/2001 PAT 7,076,743
which is a CIP of 09/594,786 06/16/2000 PAT 6,925,496
which claims benefit of 60/202,029 05/04/2000
and said 09/847,999 05/04/2001
claims benefit of 60/277,279 03/21/2001
and claims benefit of 60/283,142 04/12/2001
and claims benefit of 60/202,029 05/04/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/040,390**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Method for adding a user-selectable function to a hyperlink

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,232,722	:	
Issue Date: 19 June, 2007	:	
Application No. 11/040,516	:	ON PETITION
Filed: 20 January, 2005	:	
Attorney Docket No. IMEC279.001DV1	:	

This is a decision on the petition filed on 26 July, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

NOTE:

Petitioner avers recordation of assignment in the parent application (Application No. 10/603,426, issued as Patent No. 6,897,517 on 24 May, 2005), however, the recordation(s) of what Petitioner referred to as "a confirmatory assignment" of what Petitioner termed "a clerical error in the [original] assignment" was not recorded until 9 May, 2011.

The petition is **DISMISSED**.

ANALYSIS

Congress has authorized the issuance of patents in the name(s) of the assignee(s):

> **35 U.S.C. §152 Issue of patent to assignee.**
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title. (Emphasis supplied.)

The regulations at 37 C.F.R. §3.81 that set forth the applicable procedure:

> **§ 3.81 Issue of patent to assignee.**
>
> ***
>
> (b) *After payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance along with the processing fee set forth in § 1.17(I) of this chapter is submitted after the date of payment of the issue fee, but prior to issuance of the patent, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to §3.28, or a statement under §3.73(b).
> (c) *Partial assignees.*
>
> ***
>
> (2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees. (Emphasis supplied.)

The commentary at MPEP §1481.01 provides that:

> ***
>
> 1481.01 Correction of Assignees' Names [R-3]
>
> ***
>
> Any request for the issuance of an application in the name of the assignee submitted after the date of payment of the issue fee *** must:
>
> (A) state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent;
> (B) include a request for a certificate of correction under 37 C.F.R. §1.323 along with the fee set forth in 37 C.F.R. §1.20(a); and
> (C) include the processing fee set forth in 37 C.F.R. §1.17(i).
> See 37 C.F.R. §3.81(b).

Petitioner has submitted a form for correction, but appears that Petitioner has not satisfied the requirement that the recordation predate issue.

Patent No. 7,232,722
Application No. 11/040,516

CONCLUSION

Accordingly, the petition is **dismissed**.

The file is released to IFW Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[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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NOV 02 2010
OFFICE OF PETITIONS

THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

In re Application of	:	
Wasserman, Randall Thomas	:	
Application No. 11/040,703	:	ON PETITION
Filed: January 20, 2005	:	
Attorney Docket No. 93293U	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/925,548.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

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

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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TELEZYGOLOGY, INC.
520 W. ERIE STREET, SUITE 100
CHICAGO IL 60654

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Dickory RUDDUCK	:	
Application No. 11/040,930	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. 112427.134 US1	:	

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

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620.00. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was <u>not</u> accompanied by payment of the required fees. No consideration on the merits can be given to the petition until the required fee is received.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TELEZYGOLOGY, INC.
520 W. ERIE STREET, SUITE 100
CHICAGO IL 60654

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Dickory RUDDUCK	:	
Application No. 11/040,930	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. 112427.134 US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2011, to revive the above-identified application.

The petition is dismissed.

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

The credit card issued for payment was declined. The petition and RCE fees have not received.

The petition in the above-identified application was not accompanied by payment of the required fees. No consideration on the merits can be given to the petition until the required fee is received.

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

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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Seligman :
Application No. 11/041,070 :
Filed: 21 January, 2005 :
Attorney Docket No. 85189-8400 :

DECISION

This is a decision on the petition filed on 18 June, 2010, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

NOTE:

For reasons that are unclear, Petitioner has styled the instant petition as a "Request for Reconsideration of the Petition to Revive Unintentionally Abandoned Application" (sic).

The record reveals no previous petition addressed by the Office since the abandonment after midnight 31 March, 2009.

Petitioner/Counsel has submitted a statement from the Applicant as to the nature of the abandonment. 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]

If Petitioner has not made that inquiry, Petitioner **must** do so.

Should Petitioner's inquiry reveal that the nature of the delay was other than unintentional, Petitioner **must** immediately so Notice the Office.

[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).

Application No. 11/041,070

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.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 31 December, 2008, with reply due absent extension of time on or before 31 March, 2009.

The application went abandoned by operation of law after midnight 31 March, 2009.

The Office mailed the Notice of Abandonment on 6 August, 2009.

On 18 June, 2010, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of a Notice of Appeal and fee, and made the statement of unintentional delay.

The record (including the petition filed on 18 June, 2010) does not necessitate a finding that the delay between midnight 31 March, 2009 (the date of abandonment), and 18 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 Seligman and Counsel Allan A. Fanucci (Reg. No. 30,256) when accepting Petitioners' representation that the delay in filing the response was unintentional.[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.

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

[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).

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 also, 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.

CONCLUSION

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

The instant application is released to Technology Center 1636 (for further processing in due course) to await the filing of Petitioner's Appeal Brief (with fee) pursuant to the regulations at 37 C.F.R. Part 41 and with a due date two (2) months from the date of the mail date of this decision. Extensions of time are available pursuant to the regulations at 37 C.F.R. §1.136.

---

[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.

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 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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WINSTON & STAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

MAILED
APR 18 2011
OFFICE OF PETITIONS

In re Application of	:	
SELIGMAN	:	
Application No. 11/041,070	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. 85189-8400	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2011 and Supplemental filed April 12, 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 Decision dated August 18, 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 October 19, 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 a continuation under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) the required 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. 13/029,975 filed February 17, 2011.

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

This application is being referred to Technology Center 1636 for further processing in the normal course of business.

/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
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1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

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SEP 23 2010
OFFICE OF PETITIONS

In re Application of
Hans Goran Martin
Application No. 11/041,128
Filed: January 21, 2005
Attorney Docket No.: 204814-0001

ON PETITION

This is a decision in response to the renewed petition, filed August 9, 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 a failure to reply in a timely manner to a non-final Office action mailed March 13, 2007. A Notice of Abandonment was mailed on December 13, 2007. On April 20, 2010, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed June 9, 2010. In response, on August 9, 2010, the present petition was filed.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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

This application is being referred to Technology Center AU 2877 for appropriate action by the Examiner in the normal course of business on the amendment filed April 20, 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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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED
JAN 20 2012
OFFICE OF PETITIONS

In re Application of	:	
Han Goren Martin	:	
Application No. 11/041,128	:	DECISION ON PETITIONS
Filed: 01/21/2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 204814-0001 (450714)	:	AND 37 CFR 1.55(c)

This is a decision on the petition filed on December 28, 2011, which is treated as petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to a prior-filed international application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to prior-filed foreign Swedish application No. 0202292-9 filed on July 22, 2002, as set forth in the concurrently-filed amendment.

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.

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

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

As to the benefit claim under 37 CFR 1.55(c):

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) **a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional)**; and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with items (2) and (4) above.

In regard to item (2), a review of the file record fails to disclose that the priority information was properly included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

It is further noted that while a declaration was filed on May 2, 2005, which identified the above-referenced prior-filed foreign application by application number, country, day, month, and year of its filing, in the section of the declaration entitled "Priority" petitioner marked "No". Accordingly, the showing of record is that petitioner did not intend to make a claim of priority when filing the declaration, and no claim of priority was made.

Still further, in this regard, 37 CFR 1.55(c)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. As petitioner listed the prior-filed foreign application on the declaration filed on May 2, 2005, but marked on the declaration that priority was not claimed, the showing of record suggests that petitioner intentionally did not claim priority of the above-referenced, prior filed foreign application. As such, a question is raised as to whether the entire delay between when the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

As the Director may require additional information where there is a question whether the delay was unintentional, petitioners must provide additional information establishing that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

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

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

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/041,128	01/21/2005	2877	565	204814-0001 (450714)	18	1

CONFIRMATION NO. 4329

CORRECTED FILING RECEIPT

55694
DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

OC000000052042791

Date Mailed: 01/20/2012

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)

Hans Goran Martin, Delsbo, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 55694

Domestic Priority data as claimed by applicant

This application is a CON of PCT/SE03/01235 07/21/2003

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

If Required, Foreign Filing License Granted: 05/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/041,128**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

GAS ANALYSIS ARRANGEMENT

Preliminary Class

356

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage, facilitate, and accelerate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

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1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED
APR 04 2012
OFFICE OF PETITIONS

In re Application of	:	
Hans Goran Evald Martin	:	
Application No. 11/041,128	:	DECISION ON PETITION
Filed: 01/21/2005	:	
Attorney Docket No. 204814-0001 (450714)	:	

This is a decision on the paper entitled RENEWED PETITION UNDER 37 C.F.R. § 1.55(c) TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY, filed on March 2, 2012.

The petition is **GRANTED.**

In view of petitioner's assertions that the declaration filed on May 2, 2005, was marked to indicate that a claim of priority to the prior foreign application was claimed, the showing of record is that the claim of foreign priority was timely made by the filing of the above-referenced declaration.

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

This application is being referred to Technology Center AU 2877 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3231.

D Wood
Douglas I. Wood
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
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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
11/041,128	01/21/2005	2877	565	204814-0001 (450714)	18	1

CONFIRMATION NO. 4329

CORRECTED FILING RECEIPT

55694
DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

OC000000053388402

Date Mailed: 04/04/2012

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)

Hans Göran Evald Martin, Delsbo, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 55694

Domestic Priority data as claimed by applicant

This application is a CON of PCT/SE03/01235 07/21/2003

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
SWEDEN 0202292-9 07/22/2002

Request to Retrieve - This application either claims priority to one or more applications filed in an intellectual property Office that participates in the Priority Document Exchange (PDX) program or contains a proper **Request to Retrieve Electronic Priority Application(s)** (PTO/SB/38 or its equivalent). Consequently, the USPTO will attempt to electronically retrieve these priority documents.

If Required, Foreign Filing License Granted: 05/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/041,128**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

GAS ANALYSIS ARRANGEMENT

Preliminary Class

356

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 8/9/10

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/041488 Patent No.: 7460720B2

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:

All changes have been approved.

/Dalzid Singh/ 08/18/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/041,641	01/24/2005	Mohammad B. Bahramian	079921-0102	4616

7590 01/17/2012
Dr. M. Bahramian Impedagen LLC
Unit 3-C6 175 Brushy Plain Rd.
Branford, CT 06405-2617

EXAMINER
SHIN, DANA H

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
01/17/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MOHAMMAD BAHMAN BAHRAMIAN and
HELMUT ZARBL

Application 11/041,641
Technology Center 1600

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 41.3 Requesting to Exceed the 30-page Limit in Appeal Brief," filed December 13, 2011 ("Petition"). The Petition requests "to exceed the 30-page limit for the Appeal Brief to be filed." (Petition 1).

DISCUSSION

The current Board rule, which sets forth the appeal brief requirements (37 C.F.R. § 41.37 (2004)), does <u>not</u> include a limit on the number of pages in the brief. The page limit requirement referred to by Applicants was a

requirement of the 2008 rule, for which the effective date was delayed indefinitely (73 FR 74972, Dec. 10, 2008). The 2008 rule is not in effect. Consequently, under the rules now in effect, Applicants' request "to exceed the 30-page limit" is moot.

DECISION

For the reasons set forth above, the Petition is DISMISSED as moot.

/Kimberly R. Jordan/
Kimberly R. Jordan
Division 1 Support Administrator

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.
11/041,797	01/24/2005	Mohammad B. Bahramian	079921-0103	4710

7590 09/23/2010

Dr. M. B. Bahramian
Impedagen, LLC
Unit 3-C6, 175 Brushy Plain Road
Branford, CT 06405-2617

EXAMINER
PITRAK, JENNIFER S

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
09/23/2010	PAPER

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

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

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

SEP 23 2010

175 Brushy Plain Road, Unit 3-C6
Branford, CT 06405-2617

In re Application of: BAHRAMIAN et al	:	
Serial No: 11/041,797	:	DECISION
Filed: January 24, 2005	:	ON
Attorney Docket No: 079921-0103	:	PETITION
Title: Method of Identifying Nucleic Acid Compositions For Muting Expression Of A Gene	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on July 24, 2010.

Petition has been carefully reviewed.

MPEP 1201 states:

The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 USC 134).

The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board.

Instant petition requests review of rejections under 35 USC 102 and this is a matter of appealable to the Board. Accordingly, petition is Dismissed.

Should there be any questions about this decision, please contact Supervisory Patent examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address

listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number, 571-273-8300.

JNStone

Jacqueline Stone
Director, Technology Center 1600

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/041,797	01/24/2005	Mohammad B. Bahramian	079921-0103	4710

7590 12/16/2011
Dr. M. B. Bahramian
Impedagen, LLC
Unit 3-C6, 175 Brushy Plain Road
Branford, CT 06405-2617

EXAMINER
MCDONALD, JENNIFER SUE PITRAK

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
12/16/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MOHAMMAD BAHMAN BAHRAMIAN and
HELMUT ZARBL

Application 11/041,797
Technology Center 1600

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 41.3 Requesting to Exceed the 30-page Limit in Appeal Brief," filed November 8, 2011 ("Petition"). The Petition requests "to exceed the 30-page limit for the Appeal Brief to be filed." (Petition 1).

DISCUSSION

The current Board rule, which sets forth the appeal brief requirements (37 C.F.R. § 41.37 (2004)), does <u>not</u> include a limit on the number of pages in the brief. The page limit requirement referred to by Applicants was a

requirement of the 2008 rule, for which the effective date was delayed indefinitely (73 FR 74972, Dec. 10, 2008). The 2008 rule is not in effect. Consequently, under the rules now in effect, Applicants' request "to exceed the 30-page limit" is moot.

DECISION

For the reasons set forth above, the Petition is DISMISSED as moot.

/Kimberly R. Jordan/
Kimberly R. Jordan
Division 1 Support Administrator

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

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Allen et al.	:	DECISION ON PETITION
Application No. 11/041,894	:	TO WITHDRAW
Filed: January 21, 2005	:	FROM RECORD
Attorney Docket No. QQ1 – 0042US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on January 25, 2011.

The request is **NOT APPROVED**.

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

Customer Number 55922 was indicated as the future correspondence address, however as it is not that of the first named inventor or the assignee of record, the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) cannot be approved at this time. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Li & Cai Intellectual Property (USA) Office
2820 Shawn Leigh Dr.
Vienna, VA 22181

In re Patent No. 7,163,829 :
Issued: January 16, 2007 :
Application No.: 11/041,980 : NOTICE
Filed: January 26, 2005 :
Attorney Docket No. **BHT-3244-131** :

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,051	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVA	6801

30593 7590 12/28/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
12/28/2010	PAPER

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,051 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed December 08, 2010.

Applicants request a fourth period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. The claims of the present application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,051	01/26/2005	Bycong Moon Jeon	6111-000006/US/DVA	6801

30593 7590 12/19/2011

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

DATE MAILED: 12/19/2011

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of:
Jeon
Appl. No.: 11/042051
Filed: January 26, 2005
For: Method for Predicting an Image

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 December 8, 2011. This is the third petition for suspension. The first two suspensions were granted.

The petition is **GRANTED**.

Pursuant to applicant's request filed on December 8, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from December 8, 2011 as the related application on appeal is a good and sufficient reason to suspend. 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 Tod Swann whose telephone number is (571) 272-3612.

Tod Swann, SPRE/QAS
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,060	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVB	6805

30593 7590 10/27/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
10/27/2010	PAPER

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

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,060 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed July 29, 2010.

Applicants request a fifth period of suspension for 6 months. The reason for the request is the Board has not yet decided the Appeal in Application No. 10/335,331. As stated in Applicants' previous Petition to Suspend, the claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,060	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVB	6805

30593 7590 02/15/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
02/15/2011	PAPER

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

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

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P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,060 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed January 31, 2011.

Applicants request a sixth period of suspension for 6 months. The reason for the request is the Board has not yet decided the Appeal in Application No. 10/335,331. As stated in Applicants' previous Petition to Suspend, the claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,060	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVB	6805

30593 7590 09/19/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

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.

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P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,060 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed August 1, 2011.

Applicants request a seventh period of suspension for 6 months. The reason for the request is the Board has not yet decided the Appeal in Application No. 10/335,331. As stated in Applicants' previous Petition to Suspend, the claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7294. If attempts to reach the undersigned by telephone are unsuccessful, Beatriz Prieto, Quality Assurance Specialist, can be reached at (571) 272-3902.

/Christopher Grant/

Christopher Grant
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,060	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVB	6805

30593 7590 03/16/2012
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

MAIL DATE	DELIVERY MODE
03/16/2012	PAPER

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of: Jeon, Byeong Moon
Morris, Robert Paul
Appl. No.: 11/042,060
Filed: January 26, 2005
For: METHOD FOR PREDICTING AN IMAGE

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 February 1, 2012. This is the ninth petition for suspension.

The petition is **GRANTED**.

Pursuant to applicant's request filed on February 1, 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from the mailing of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Chau Nguyen whose telephone number is (571) 272-3126.

/Chau Nguyen/

Chau T. Nguyen
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,083	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVC	8161

30593 7590 08/04/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
08/04/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 04 2010

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HARNESS, DICKEY & PIERCE, P.L.C.
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RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,083 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension filed July 15, 2010.

Applicants request a third period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. The claims of the present application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:
>
> (1) A showing of good and sufficient cause for suspension of action; and
>
> (2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

> 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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 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.

Wanda L. Walker

Wanda L. Walker, Director
Technology Center 2600
Communications

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.
11/042,083	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVC	8161

30593 7590 02/15/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
02/15/2011	PAPER

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,083 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension filed February 4, 2011.

Applicants request a fourth period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. The claims of the present application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,083	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVC	8161

30593 7590 08/24/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

MAIL DATE	DELIVERY MODE
08/24/2011	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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,083 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension filed August 15, 2011.

Applicants request a fifth period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. The claims of the present application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/

Mehrdad Dastouri
Acting Quality Assurance Specialist
Technology Center 2400

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Jonathan P. O'Brien, Ph.D.
Honigman Miller Schwartz and Cohn LLP
350 East Michigan Avenue
Suite 300
Kalamazoo MI 49007

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MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Chan Chun Kong et al.	:	ON REQUEST FOR
Application No. 11/042442	:	RECONSIDERATION OF
Filing or 371(c) Date: 01/26/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
223306/PHAR129USCN/301859	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b), filed April 7, 2011. Applicant requests an adjustment of the patent term to indicate a total Patent Term Adjustment of 236 days, not 137 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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MICHAEL BEST & FRIEDRICH LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
CHICAGO IL 60601

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SEP 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Jintao Lui	:	
Application No. 11/042648	:	
Filing or 371(c) Date: 01/25/2005	:	ON PETITION
Attorney Docket Number: 025556-9014	:	

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

This Petition is hereby **granted**.

Applicant filed a Notice of Appeal and Appeal Brief on October 5, 2010. The appeal brief was unacceptable as it lacked the appropriate fee. Applicant was so notified in a Communication Regarding Appeal, mailed November 17, 2010. No fee for the filing of the Appeal Brief having been filed, the appeal was dismissed and the application became abandoned. A Notice of Abandonment was mailed July 15, 2011.

Applicant files the present petition and the Appeal Brief fee.

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

The application is being referred to Technology Center Art Unit 3656 processing of the Appeal Brief, filed October 5, 2010, in the normal course of business.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Patent No. 7,772,259	:	
Karp, et al.	:	DECISION DISMISSING
Application No. 11/042,652	:	REQUEST FOR
Issue Date: August 10, 2010	:	RECONSIDERATION OF
Filed: January 24, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
10589-046-999	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)" filed September 7, 2010. Patentees requests that the determination of patent term adjustment be corrected from one thousand, two hundred and fifteen (1,215) days to one thousand, three hundred and thirty-five (1,355) days.

The request for reconsideration of 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 1,215 days.

This application was filed on January 24, 2005. On August 10, 2010, the application matured into U.S. Patent No. 7,772,259 with a revised patent term adjustment of 1,215 days. The instant petition under 37 CFR 1.705(d) was filed on September 7, 2010, within two months of the issuance of the patent.

Patentees dispute the reduction of 120 days entered after the Notice of Allowance and Issue Fee Due was mailed on February 2, 2010. The reduction to the patent term adjustment of 120 days was entered for the "Letter" filed April 2, 2010.

Patentees' argument as to the reduction of the patent term adjustment of 120 days has been considered and is not persuasive. A review of the application reveals that a reduction of the patent term adjustment of 120 days was entered for the filing of the "Letter", on April 2, 2010, after the mailing of

the Notice of Allowance and Issue Fee Due was mailed on February 2, 2010. Such a paper is not identified as one of the papers[1] the filing of which the Director has specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[2]. Further, contrary to patentees' assertion, the fact the "Letter" may have required no response from the USPTO is not dispositive. In fact, the filing of such a letter and accompanying documents that may have been material to the patentability of the invention claimed (a fact the Office could only determine by reviewing the documents filed) may have

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

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

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

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the periods of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or other such paper; or
>
> (ii) Four months…

interfered with and delayed the patent issue process such that the filing of "Letter" constituted a "failure to engage in reasonable efforts to concluded processing of the application. Thus, reduction to patent term adjustment of 120 days[3] pursuant to 37 CFR 1.704(c)(10) is proper and will not be removed.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 1,215 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 the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[3] It is noted that the Office did not mail a response to the "Letter". Accordingly, the period of reduction began on April 2, 2010, and ended with the issuance of the patent on August 10, 2010. However, because said period exceed four months, only a period of reduction four months, or 120 days, was entered pursuant to 37 CFR 1.704(c)(10) (ii).

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

In re Patent No. 7,553,831	: DECISION ON REQUEST
Issued: June 30, 2009	: FOR RECONSIDERATION
Application No. 11/042,695	: OF PATENT TERM ADJUSTMENT
Filed: January 25, 2005	: AND
Attorney Docket No. 01-1693-CC	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT OFFICE'S DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT" filed January 15, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 472 days to 813 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 of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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.

Your petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,553,831 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept <u>any</u> requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-

day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of September 28, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

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

Anthony Knight
Director
Office of Petitions

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FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK NY 10994

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In re Application of	:	
GELFAND	:	
Application No. 11/042,760	:	DECISION ON PETITION
Filed: January 25, 2005	:	
Attorney Docket No. 8969-P	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a proper reply to the Notice of Non-Compliant Amendment mailed, December 1, 2009, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 2, 2010.

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

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

This application is being referred to Technology Center 3677 for appropriate action by the Examiner in the normal course of business on the reply received February 17, 2011.

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

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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.
11/043,092	01/27/2005	Byeong Moon Jeon	6111-000002/US/DVB	9699

30593 7590 10/22/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
10/22/2010	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.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/043,092 : DECISION ON REQUEST
Filed: January 27, 2005 :
For: **METHOD OF PREDICTING AN IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed August 3, 2010.

Applicants request a third period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/
Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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.
11/043,092	01/27/2005	Byeong Moon Jeon	6111-000002/US/DVB	9699

30593 7590 02/15/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
02/15/2011	PAPER

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

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

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FEB 15 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/043,092 : DECISION ON REQUEST
Filed: January 27, 2005 :
For: **METHOD OF PREDICTING AN IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed February 3, 2011.

Applicants request a fourth period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/
Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/043,092	01/27/2005	Byeong Moon Jeon	6111-000002/US/DVB	9699

30593 7590 08/24/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

MAIL DATE	DELIVERY MODE
08/24/2011	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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AUG 23 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON
Application No. 11/043,092
Filed: January 27, 2005
For: **METHOD OF PREDICTING AN IMAGE BLOCK**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed August 3, 2011.

Applicants request a fifth period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/
Mehrdad Dastouri
Acting Quality Assurance Specialist
Technology Center 2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/18/2011

Paper No.: ____

TO SPE OF : ART UNIT 2476

CofC mailroom date 1/4/2011

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/043122 Patent No.: 7813302 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: Multiple dependent claim approved. Okay to renumber. /B.W./

/Ayaz Sheikh/ 2476

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/043,182	01/27/2005	Byeong Moon Jeon	6111-000002/US/DVC	8049

30593 7590 10/22/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
10/22/2010	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.

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DIRECTOR OFFICE
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/043,182 : DECISION ON REQUEST
Filed: January 27, 2005 :
For: **METHOD OF DETERMINING MOTION VECTORS FOR A BI-PREDICTIVE IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed August 31, 2010.

Applicants request a third period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed to the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/
Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/043,182	01/27/2005	Byeong Moon Jeon	6111-000002/US/DVC	8049

30593 7590 06/08/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

MAIL DATE	DELIVERY MODE
06/08/2011	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.

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JUN 07 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/043,182 : DECISION ON REQUEST
Filed: January 27, 2005 :
For: **METHOD OF DETERMINING MOTION VECTORS FOR A BI-PREDICTIVE IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed February 28, 2011.

Applicants request a fourth period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed to the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/
Mehrdad Dastouri
Acting Quality Assurance Specialist
Technology Center 2400

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7188763
Issue Date: March 13,2007
Application No. 11043211
Filed: January 26,2005
Attorney Docket No. 0104-P0008A

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

This is a decision on the electronic petition, filed March 15,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 15,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7188763	2007-03-13	11043211	2005-01-26	0191-P0001A

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	/Hyun Jong Park/	Date (YYYY-MM-DD)	2011-03-15
Name	Hyun Jong Park	Registration Number	59093

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HANIFY & KING PROFESSIONAL CORPORATION
1055 Thomas Jefferson Street, NW
Suite 400
WASHINGTON DC 20007

MAILED

NOV 0 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Hideto Furukawa, et al.	:	
Application No. 11/043,307	:	DECISION GRANTING PETITION
Filed: January 26, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5262-008-US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 5, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed :January 13, 2012

Patent No. :7945280
Inventor(s) :Hideto Furukawa ; et al
Issued :May 17, 2011
Title :RICH MEDIA EVENT PRODUCTION SYSTEM AND METHOD INCLUDING
:THE CAPTURING, INDEXING, AND SYCHRONIZING A RGB-BASED
:GRAPHIC CONTENT

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent.

Respecting the error in the omission of related Application Data, the first sentence of the specification" and/or any amendments thereto, is used for printing data claimed under 35 USC 120. Since the first sentence of the specification does not refer to the additional information as reflected on applicants request correction is not in order here under Rule 1.322.

In view of the forgoing your request in this matter is hereby denied. However, further consideration will be given under the provisions of Rule 1.323 upon receipt of a request for the issuance of a certificate of correction accompanied by the appropriate fee of $100.

Future correspondence concerning this matter should be directed to Decisions and Certificate of Correction Branch.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-

Murphy & King, Professional Corporation
1055 Thomas Jefferson Street,N.W., Ste 400
Washington, DC 20007

/arg

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

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of
Alain Duboust et al
Application No. 11/043,361
Filed: January 26, 2005
Attorney Docket No. 08711USA/CMP/05542-596001

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 January 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3724 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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SEP 27 2010

OFFICE OF PETITIONS

WONG, CABELLO, LUTSCH, RUTHERFORD
& BRUCCULERI LLP
20333 SH 249
SUITE 600
HOUSTON TX 77070

In re Application :
Rudolph V. Park et al. :
Application No. 11/043,404 : DECISION ON APPLICATION
Filed: January 25, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **585-0031US6** :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed April 16, 2010. Applicants request that the determination of patent term adjustment be corrected from 599 days to 730 days.

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

On April 2, 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 599 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 131 days of PTA for the filing of a response to the non-Final Office Action mailed January 2, 2009.

Applicants state that a response was filed on July 29, 2009 to a non-Final Office Action mailed April 29, 2009, and that on December 7, 2009, in response to a Notice of Informal or Non-Responsive Amendment mailed November 13, 2009, two sentences were deleted and highlighted in bold portions of arguments as previously presented. Applicant argues that "there was nothing non-compliant about Applicant's amendment. Applicants amendment complied with 37 C.F.R. § 1.121 in every way." Applicants argue further that, with respect to the response filed July 29, 2009, "the Examiner should not have issued a Notice of Informal or Non-Responsive Amendment for not recognizing text already present in the compliant Response", thus no period of Applicant delay should have resulted from the response filed December 7, 2009, the period of 131 days

[1] PALM records indicate that the Issue Fee was also received on June 14, 2010.

delay accorded the Applicant should be removed and thus, the total Applicant delay should be 3 days.

Applicant's argument is not persuasive. 37 CFR 1.702(a)(2) provides that: Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

> Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

It is undisputed that a reply was filed on July 29, 2009 however, that reply had an omission and the omission was corrected on December 7, 2009, one hundred thirty-one (131) days after the filing of the initial response on July 29, 2009. Therefore the reduction is proper.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 599 days.

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

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

The application is being forwarded to the Office of Data Management for issuance of

the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/10

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11043814 Patent No.: 7671202

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Janet L. Andres/
SPE

1625
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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JUN 17 2011

OFFICE OF PETITIONS

PATTERSON & SHERIDAN, LLP - - APPM/TX
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

In re Application of	:
Kurita, et al.	: DECISION ON PETITION
Application No. 11/044,245	:
Filed: January 27, 2005	:
Atty. Dkt. AMAT/8839.C1/DISPLAY/AKT/	:

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 10, 2011.

The application was held abandoned for failure to timely submit a proper reply to the final Office action mailed November 10, 2010. Notice of Abandonment was mailed June 6, 2011.

Petitioner asserts that a reply in the form of a notice of appeal and petition for one month extension of time was timely filed March 10, 2011.

The reply filed March 10, 2011 has been located in the official application file. The one month extension of time fee which was not collected by the Office at the time of submission has been received.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Group Art Unit 1716 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE CA 95113

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,532,697 :
Issued: May 12, 2009 :
Application No. 11/044,478 : ON PETITION
Filed: January 27, 2005 :
Attorney Docket No: AELU.P0009 :

This is a decision regarding your request for acceptance of a fee deficiency submission filed October 1, 2010 under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEORGE J. CIAMILLO
4159 MIKE PADGETT HIGHWAY
AUGUSTA GA 30906

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NOV 02 2010
OFFICE OF PETITIONS

In re Application of
George J. CIAMILLO
Application No. 11/044,540
Filed: January 27, 2005
Attorney Docket No. MGW01

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed May 5, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 6, 2010.

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

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

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 Examiner assigned to this application has approved the corrected drawings filed with the petition on October 12, 2010.

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.

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

Cc: ARIEL BENTOLILA
P.O. BOX 210459
SAN FRANCISCO CA 94121-0459

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SEP 27 2010

OFFICE OF PETITIONS

ELMORE PATENT LAW GROUP, PC
515 GROTON ROAD
UNIT 1R
WESTFORD MA 01886

In re Application of	:	
Peter D. Fiset	:	
Application No. 11/044,614	:	DECISION ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. **4007.3000 US2**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 04, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 05, 2006.

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 $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/732,667.

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 May 10, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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JUL 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Davia J. WOJOTOWICZ, *et al.*	:	
Application No. 11/044,689	:	DECISION ON PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.181
Attorney Docket No. **EDSM/02**	:	

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

The petition is **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 became abandoned, by operation of law, on October 29, 2010 for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 28, 2010, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on May 2, 2011.

Petitioner asserts that on January 7, 2011, prior to the final six month response date of January 28, 2011, the examiner mailed an "interview summary" stating that the interview resulted in allowance of the application and that the examiner would provide a written summary of the interview in the Notice of Allowability. Six weeks later, beyond the six month deadline for response to the final action, the examiner mailed an advisory application stating that the December reply failed to place the application in condition for allowance and that the period for reply expired three months after the mailing of the final rejection.

A review of the file record discloses that on July 28, 2010 a final Office action was mailed (with three month statutory response period). Applicant's response was received on December 22, 2010 accompanied by a two month extension of time. On

January 7, 2011 an examiner interview summary was mailed acknowledging receipt of applicant's amendment and indicating that a response would follow. A Notice of Abandonment was mailed May 2, 2011.

In this instance, since the amendment submitted on December 22, 2010 did not *prima facie* place the application in condition for allowance, (and no other reply i.e., a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b) has been provided, the reply is not considered a proper response. Accordingly, the request can not be granted at this time.

Alternate Avenue

Petitioner may wish to consider filing a Petition under 37 CFR 1.137(b) For Revival of an Application Unintentionally Abandoned. 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 Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

MAILED
AUG 12 2011
OFFICE OF PETITIONS

In re Application of	:	
David J. WOJOTOWICZ, et *al.*	:	
Application No. 11/044,689	:	DECISION ON PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.181
Attorney Docket No. **EDSM/02**	:	

This is in response to the renewed petition, filed July 8, 2011 under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.137.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 28, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 29, 2010.

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

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

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 3679 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 on May 12, 2011.

Thurman K. Page
Petitions Examiner
Office of Petitions

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THE FARRELL LAW FIRM, P.C.
290 BROADHOLLOW ROAD
SUITE 210E
MELVILLE, NY 11747

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SEP 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Sang-Kyung Sung, et al.	:	
Application No.: 11/044,851	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No.: 678-1819	:	

This is a decision in response to the petition, filed August 30, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to timely pay the issue fee on or before May 25, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice) mailed February 25, 2011. A Notice of Abandonment was mailed on July 7, 2011. On August 30, 2011, the present petition was filed.

Petitioner asserts that the Notice mailed February 25, 2011 was not received. In support, petitioner submits a copy of the firm's master docket showing all communications from the USPTO from February 22, 2011 through February 28, 2011, marked as Exhibit C; a copy of the firm's master docket showing all replies docketed for a May 25, 2011 due date, marked as Exhibit B; and the docket records for the application in question, marked as Exhibit A.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance on February 25, 2011, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received.

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

Petitioner introduces Exhibit A and states "[A]s can be seen, the Notice of Allowance was not entered into this docket record. The last item recorded in the docket record was a Pre-Appeal Brief Follow Up for July 1, 2011. A Petition to Revive is presently docketed to be filed on September 7, 2011." However, a review of Exhibit A fails to show entries for the receipt of other Office communications. For example, a Final Office action was mailed on May 24, 2010; however, the May 24, 2010 final Office action is not listed under "List of Actions" on the docket record for the present application. Therefore, the docket record presented cannot be relied on to show that all USPTO communications were **entered *and* docketed** when received.

The petition and the evidence presented does not establish non-receipt of the Notice in compliance with the procedures set for at MPEP 711.03(c). Specifically, the petition does not describe the system used for docketing an Office action received at the correspondence address of record and there is no statement establishing the reliability of that docketing system. Absent the required evidence to establish non-receipt of the Notice of Allowance on February 25, 2011, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee.

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

CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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SUITE 210E
MELVILLE, NY 11747

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DEC 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Sang-Kyung Sung, et al.	:	
Application No. 11/044,851	:	DECISION ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 678-1819	:	

This is a decision in response to the renewed petition under 37 CFR 1.181 (no fee), filed November 14, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to a Notice of Allowance and Fee(s) Due mailed February 25, 2011. On August 30, 2011, a petition under 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed September 14, 2011. In response, on November 14, 2011, the present petition was filed.

On reconsideration, the petition establishes non-receipt of the Notice in compliance with the procedures set for at MPEP 711.03(c).

In view of the above, the Notice of Abandonment mailed July 7, 2011 is hereby vacated and the holding of abandonment withdrawn.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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

Attorney Docket Number: 028635-017 US	
Application Number: 11/044,874	Filing Date (or 371(b) or (f) Date): 01-28-2005
Patent Number: 7,702,578	Issue Date: 04-20-2010
First Named Inventor: Daniel Y. Fung	
Title: METHOD, SYSTEM AND COMPUTER READABLE MEDIUM FOR WEB SITE ACCOUNT AND E-COMMERCE MANAGEMENT FROM A CENTRAL LOCATION	

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 /Carlos R. Villamar Reg. # 43224/	Date 22 SEP 10
Name (Print/Typed) Carlos R. Villamar	Registration Number 43224

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

☑ *Total of 1 forms are submitted.

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

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

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

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

The Villamar Firm PLLC
3424 Washington Drive
Falls Church, VA 22041

Mail Date: 09/30/2010

Applicant	: Daniel Y. Fung	: DECISION ON REQUEST FOR
Patent Number	: 7702578	: RECALCULATION of PATENT
Issue Date	: 04/20/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/044,874	: OF WYETH
Filed	: 01/28/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,838,039 :
Robert F. Baugh et al :
Application No. 11/044,984 :
Filed: January 27, 2005 :
Attorney Docket No. 37272-505C04US :

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

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.

STERNE, KESSLER,
GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,516	:	DECISION ON REQUEST
Susan Low	:	FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 11/045,022	:	PATENT TERM ADJUSTMENT
Filed: January 27, 2005	:	and
Atty Docket No. 2159.2490001	:	NOTICE OF INTENT TO ISSUE
/EKS/C-K	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 11, 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 three hundred sixty-seven (368) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred sixty-seven (367) days.

The B delay is 247 days, not 248 days. The over three year period is 247 days as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on January 28, 2008, and ended on September 30, 2008, the *day before* the RCE was filed. *See* 35 U.S.C. § 154(b)(1)(B)(i). Accordingly, the patent term adjustment is increased by 247 days to a revised patent term adjustment of 367 days. (The 100 days entered at issuance for "B" delay is being removed and the 247 days entered).

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred sixty-seven **(367)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,516 B2

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

INVENTOR(S) : Forssell 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 220 days

Delete the phrase "by 220 days" and insert – by 367 days--

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED
FEB 21 2012
OFFICE OF PETITIONS

In re Application of

Widomski, et al.

Application No. 11/045,027

Filed: January 27, 2005

Attorney Docket No. **GORE1560**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 16, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on November 17, 2010. A Notice of Abandonment was mailed on March 2, 2011.

The amendment filed February 2, 2012, is noted.

The request for the extension of time within the third month filed February 2, 2012, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of $1,270.00 will be refunded, in due course.

The application is being forwarded to Technology Center GAU 3773 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
NOV 24 2010
OFFICE OF PETITIONS

In re Application of :
Toshiya Watanabe et al :
Application No. 11/045,125 : DECISION GRANTING PETITION
Filed: January 31, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0122.1668CIP :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 16, 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 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1784 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

DATE : 03/20/12

TO SPE OF : ART UNIT 2889

SUBJECT : Request for Certificate of Correction for Appl. No.: 11045192 Patent No.: 7749037

CofC mailroom date: 03/15/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes to claim 1 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 in Part** Specify below which changes **do not** apply.

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

Comments: APPROVED

/TOAN TON/ 2889

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOGAN LOVELLS US LLP
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Sidney Hecht et al :
Application No. 11/045,423 : ON PETITION
Filed: January 28, 2005 :
Attorney Docket No. 30537.0010

This is a decision on the petition, filed August 11, 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 June 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]

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

This matter is being referred to Technology Center AU 1645 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

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

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Nomura et al.	:	
Application No. 11/045446	:	ON REQUEST FOR RECONSIDERATION
Filing or 371(c) Date: 01/31/2005	:	OF PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
0283-0206PUS1	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 11, 2011. Applicant submits that the patent term adjustment should correctly be 550 days, not 560 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon an assertion that the Office erred in failing to calculate a reduction of 10 days pursuant to 37 CFR 1.704(c)(8).

The request for reconsideration of patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred fifty **(550)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On October 15, 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 560 days.

On January 11, 2011, applicant timely submitted the present application for patent term adjustment[1]. Applicant asserts that the Office erred in failing to calculate a reduction of 10 days pursuant to 37 CFR 1.704(c)(8).

Applicant's argument has been carefully considered. A review of Office records confirm that applicant filed a Request for Continued Examination ("RCE"), and an Information Disclosure Statement ("IDS"), in response to a Notice of Allowance and Issue Fee Due, on September 20, 2010. Thereafter, applicants filed an IDS on September 30, 2010. A review of the IDS, filed September 30, 2010, confirms that the IDS does not contain the language required by 37 CFR

[1] Office records show that the Issue Fee payment was received in the Office on January 13, 2011.

1.704(d). As such, pursuant to 37 CFR 1.704(c)(8), the application is properly assessed a reduction of 10 days, commencing September 21, 2010, the day after the date that the reply to the Notice of Allowance and Issue Fee Due was filed, and ending on the date the IDS was filed, September 30, 2010.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is five hundred fifty (550) days, subject to any terminal disclaimer.

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

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

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

Application Number*: 11045446 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11045446

Application Filing Date	01/31/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	724
A Delays	724	PTO Manual Adjustment	-10
B Delays	0	Applicant Delay (APPL)	164
C Delays	0	Total PTA (days)	550

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
146	04/08/2011		P028	Adjustment of PTA Calculation by PTO		10	0
138	10/15/2010		MN/=.	Mail Notice of Allowance			0
137	10/12/2010		IREV	Issue Revision Completed			0
136	10/12/2010		DVER	Document Verification			0
135	10/12/2010		N/=.	Notice of Allowance Data Verification Completed			0
134	10/12/2010		CNTA	Allowability Notice			0
133	09/30/2010		M844	Information Disclosure Statement (IDS) Filed			0
130	09/30/2010		IDSC	Information Disclosure Statement considered			0
128	09/30/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
124	09/22/2010		ABN9	Disposal for a RCE / CPA / R129			0
129	09/20/2010		IDSC	Information Disclosure Statement considered			0
127	09/20/2010		RCAP	Reference capture on IDS			0
126	09/20/2010		M844	Information Disclosure Statement (IDS) Filed			0
125	09/20/2010		RCEX	Request for Continued Examination (RCE)			0
123	09/20/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
122	09/20/2010		BRCE	Workflow - Request for RCE - Begin			0
121	06/22/2010		EIDC	Export to Initial Data Capture			0
120	06/21/2010		ELC_RVW	Electronic Review			0
119	06/21/2010		EML_NTF	Email Notification			0
118	06/21/2010		MN/=.	Mail Notice of Allowance			0
117	06/16/2010		IREV	Issue Revision Completed			0
116	06/16/2010		DVER	Document Verification			0
115	06/16/2010		N/=.	Notice of Allowance Data Verification Completed			0
114	06/16/2010		CNTA	Allowability Notice			0
107	05/11/2010		IDSC	Information Disclosure Statement considered			0
102	05/11/2010	03/31/2010	M844	Information Disclosure Statement (IDS) Filed		41	94
101	05/11/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
106	05/04/2010		IDSC	Information Disclosure Statement considered			0
100	05/04/2010		M844	Information Disclosure Statement (IDS) Filed			0
99	05/04/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
105	04/22/2010		IDSC	Information Disclosure Statement considered			0
98	04/22/2010		RCAP	Reference capture on IDS			0
97	04/22/2010		M844	Information Disclosure Statement (IDS) Filed			0
96	04/22/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
95	04/21/2010		FWDX	Date Forwarded to Examiner			0
94	03/31/2010	01/01/2010	A...	Response after Non-Final Action		09	80
93	03/31/2010		XT/G	Request for Extension of Time - Granted			0
104	02/04/2010		IDSC	Information Disclosure Statement considered			0
91	02/04/2010		M844	Information Disclosure Statement (IDS) Filed			0
90	02/04/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
87	12/28/2009		EML_NTR	Email Notification			0
86	12/28/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
85	12/18/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
84	11/12/2009		FIDC	Finished Initial Data Capture			0
103	10/28/2009		IDSC	Information Disclosure Statement considered			0
89	10/28/2009		RCAP	Reference capture on IDS			0
88	10/28/2009		M844	Information Disclosure Statement (IDS) Filed			0
83	10/28/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
82	10/01/2009		ELC_RVW	Electronic Review			0
81	10/01/2009		EML_NTF	Email Notification			0
80	10/01/2009		MCTNF	Mail Non-Final Rejection			0
79	09/25/2009		CTNF	Non-Final Rejection			0
76	09/12/2009		FWDX	Date Forwarded to Examiner			0
74	09/12/2009		ABN9	Disposal for a RCE / CPA / R129			0
78	09/01/2009		IDSC	Information Disclosure Statement considered			0
77	09/01/2009		M844	Information Disclosure Statement (IDS) Filed			0
75	09/01/2009		RCEX	Request for Continued Examination (RCE)			0
73	09/01/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
72	09/01/2009		BRCE	Workflow - Request for RCE - Begin			0
70	06/02/2009		ELC_RVW	Electronic Review			0
69	06/02/2009		EML_NTF	Email Notification			0
68	06/02/2009		EML_NTR	Email Notification			0
67	06/02/2009		MEX.A	Mail Examiner's Amendment			0
66	06/02/2009		MN/=.	Mail Notice of Allowance			0
71	06/01/2009		EIDC	Export to Initial Data Capture			0
63	05/26/2009		IREV	Issue Revision Completed			0
62	05/26/2009		DVER	Document Verification			0
61	05/26/2009		N/=.	Notice of Allowance Data Verification Completed			0
60	05/26/2009		DOCK	Case Docketed to Examiner in GAU			0
59	05/26/2009		EX.A	Examiner's Amendment Communication			0
58	05/26/2009		CNTA	Allowability Notice			0
57	04/06/2009		IDSC	Information Disclosure Statement considered			0
52	04/06/2009		IDSC	Information Disclosure Statement considered			0
51	04/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
50	04/06/2009	03/03/2009	M844	Information Disclosure Statement (IDS) Filed		34	47
49	04/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
48	03/17/2009		FWDX	Date Forwarded to Examiner			0
47	03/03/2009		A...	Response after Non-Final Action			0
46	12/05/2008		ELC_RVW	Electronic Review			0
45	12/05/2008		EML_NTF	Email Notification			0
44	12/05/2008		MCTNF	Mail Non-Final Rejection			0
43	12/02/2008		CTNF	Non-Final Rejection			0
41	10/06/2008		FWDX	Date Forwarded to Examiner			0
40	09/15/2008		A...	Response after Non-Final Action			0
39	06/17/2008		ELC_RVW	Electronic Review			0
38	06/16/2008		EML_NTF	Email Notification			0
37	06/16/2008		MCTNF	Mail Non-Final Rejection			0
36	06/11/2008		CTNF	Non-Final Rejection			0

Documentation Explorer

29	05/07/2008		FWDX	Date Forwarded to Examiner		0
28	04/24/2008		ELC.	Response to Election / Restriction Filed		0
27	04/24/2008		LET.	Miscellaneous Incoming Letter		0
26	03/25/2008		ELC_RVW	Electronic Review		0
25	03/24/2008		EMI_NTF	Email Notification		0
24	03/24/2008	03/31/2006	MCTRS	Mail Restriction Requirement	724	-1
23	03/13/2008		CTRS	Restriction/Election Requirement		0
22	03/07/2008		DOCK	Case Docketed to Examiner in GAU		0
21	10/31/2007		A.PE	Preliminary Amendment		0
31	08/31/2007		IDSC	Information Disclosure Statement considered		0
20	08/31/2007		RCAP	Reference capture on IDS		0
19	08/31/2007		M844	Information Disclosure Statement (IDS) Filed		0
18	08/31/2007		WIDS	Information Disclosure Statement (IDS) Filed		0
17	11/23/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
16	08/23/2005		DOCK	Case Docketed to Examiner in GAU		0
35	08/15/2005		IDSC	Information Disclosure Statement considered		0
15.7	08/15/2005		M844	Information Disclosure Statement (IDS) Filed		0
15	08/15/2005		WIDS	Information Disclosure Statement (IDS) Filed		0
10	07/12/2005		OIPE	Application Dispatched from OIPE		0
9	07/12/2005		COMP	Application Is Now Complete		0
32	06/30/2005		IDSC	Information Disclosure Statement considered		0
14	06/30/2005		RCAP	Reference capture on IDS		0
13.7	06/30/2005		M844	Information Disclosure Statement (IDS) Filed		0
13	06/30/2005		WIDS	Information Disclosure Statement (IDS) Filed		0
12	06/28/2005		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0
8	06/28/2005		ADDFLFEE	Additional Application Filing Fees		0
7	06/28/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
6	04/28/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	04/19/2005		L128	Cleared by L&R (LARS)		0
3	02/19/2005		L198	Referred to Level 2 (LARS) by OIPE CSR		0
2	02/15/2005		SCAN	IFW Scan & PACR Auto Security Review		0
11	01/31/2005		A.PE	Preliminary Amendment		0
1	01/31/2005		IEXX	Initial Exam Team nn		0

Export to: Excel

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WONG CABELLO LUTSCH RUTHERFORD & BRUCCULERI, LLP
20333 SH 249 6TH FLOOR
HOUSTON TX 77070

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,679,638	:	DECISION ON
Eshkoli, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: March 16, 2010	:	AND NOTICE OF INTENT
Application No. 11/045,565	:	TO ISSUE
Filed: January 27, 2005	:	CERTIFICATE OF
Attorney Docket No. 199-0419US	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed April 27, 2010. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand six (1006) days to one thousand ninety-seven (1097) days.

The request is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand ninety-seven (1097)** days.

On March 16, 2010, the above-identified application matured into U.S. Patent No. 7,679,638. The instant request for reconsideration filed April 27, 2010 was timely filed within two months of the date the patent issued. The Patent issued with a Patent Term Adjustment of one thousand six (1006) days. Patentees state that they should not have been assessed applicant delay of ninety-one (91) days for the submission of an IDS after the mailing of the Notice of Allowance, because the IDS was a duplicate submission of an IDS previously filed.

Under the circumstances of this case, it is concluded that the filing of applicants' IDS is not a failure to engage under 37 C.F.R. §1.704(c)(10). A review of the record reveals that applicants previously submitted an IDS on October 24, 2008. However, the Notice of Allowance mailed on January 28, 2010, did not include the October 24, 2008 submission on the initialed IDS. As this was the first opportunity for applicants to correct this error, the assessment of ninety-one (91) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **one thousand ninety-seven (1097)** days (1112 days of PTO delay, reduced by 15 days of applicant day).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one thousand ninety-seven (1097)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,679,638 B2

DATED : **March 16, 2010**

INVENTOR(S) : Eshkoli 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 1006 days.

Delete the phrase "by 1006 days" and insert – by 1097 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101117

DATE : November 17, 2010

TO SPE OF : ART UNIT 2167

SUBJECT : Request for Certificate of Correction on Patent No.: 7664797

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:

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

/John R. Cottingham/
Supervisory Patent Examiner, Art Unit 2167

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APR 11 2011
OFFICE OF PETITIONS

Legal Department (M-495)
P.O. Box 1926
Spartanburg SC 29304

In re Application of :
Xu et al. :
Application No. 11/045,630 : ON PETITION
Filed: January 28, 2005 :
Attorney Docket No. 5793 :
For: CO-ADDITIVE COMPOSITIONS AND METHODS FOR APPLYING CO-ADDITIVE COMPOSITIONS INTO NUCLEATED POLYMER COMPOUNDS

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2011, to revive the above-identified application.

This application became abandoned as a result of petitioners' failure to file an appropriate follow-up submission to the Notice of Appeal, filed May 4, 2010, within two (2) months of the filing of the Notice of Appeal. As an appropriate follow-up submission was not filed within two (2) months of the filing of the Notice of Appeal, filed May 4, 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 July 5, 2010. *See* MPEP 1215.04.

Applicants have submitted a proper reply in the form of an RCE and required $810.00 fee and an amendment as the submission, an acceptable statement of the unintentional nature of the delay in filing a follow-up submission to the May 4, 2010 Notice of Appeal, and the $1,620.00 petition fee.

The petition is **GRANTED**.

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.

After the mailing of this decision the application will be forwarded to Technology Center AU 1725 for consideration of the RCE and amendment filed on March 4, 2011.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: ROBERT M. LANNING
LEGAL DEPARTMENT, M-495
920 MILLIKEN ROAD
SPARTANBURG SC 29303

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,022,133

APPLICATION NO.: 11/045,630

ISSUE DATE : September 20, 2011

INVENTOR(S) : Jiannong Xu, Jiang Li, Benjamin W. Bolt, Kemper David Lake, Jr., Jason Dean Sprinkle, Brian Michael Burkhart, Keith Allen Keller

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

Column 18, line 46, before "resin" delete the word --polypropylene--.

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

Milliken & Company
Legal Department (M-495)
P. O. Box 1926, Spartanburg, SC 29304

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/8/2012

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/045630 Patent No.: 8022133 B2

CofC mailroom date: 1/26/2012

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

Comments: Amendment does not change the scope of the claims and no new matter has been introduced

SPE

1725
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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OFFICE OF PETITIONS

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

In re Application of
Stefan Beck
Application No.: 11/045,658
Filed: January 28, 2005
Attorney Docket No. 09700.0044-00

:
:DECISION ON APPLICATION
:FOR ADJUSTMENT
:PATENT TERM ADJUTSMENT
:

This is in response to the "Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation", filed December 29, 2009, which will be treated as a petition under 37 CFR 1.705(b). Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

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

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred and twenty-five (325) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On December 10, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 383 days. On December 29, 2009, applicants submitted the instant petition. Applicants assert the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed December 10, 2009, is incorrect. Specifically, applicants state that:

> Based on Applicant's calculation, at this point in the prosecution of this application, the patent term adjustment period should be three hundred and twenty-five days. Applicant believes that there should have been a 58-day deduction of patent term adjustment for the Request for Continued Examination and Amendment that was filed March 27,2009, in response to the Final Office Action dated October 28, 2008.

Excerpt from "Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation", filed December 29, 2009, *pages 1-2.*

The application history has been reviewed and it has been determined that applicant should have been assessed a delay under 37 CFR 1.704(b)[1] for filing a reply in excess of the three month period from the October 28, 2008, mailing date of the final Office action. On October 28, 2008, a final Office action was mailed. On March 27, 2009, applicants filed a response to the final Office action. Thus, applicant failed to engage in reasonable efforts to conclude processing or examination of this application. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 58 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, January 29, 2009, and ending on the date the reply was filed, March 27, 2009. A period of reduction of 58 days will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is three hundred and twenty-five (325) days (416 days of Office delay - 91 days of applicant delay).

Deposit account 06-0916 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] 37 CFR 1.704(b) states:

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

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

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

Telephone inquiries regarding this specific 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 REVISED PALM screen

PALM INTRANET

Day : Tuesday
Date: 8/3/2010
Time: 12:13:52

PTA Calculations for Application: 11/045658			
Application Filing Date:	01/28/2005	PTO Delay (PTO):	416
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	325
PTO Delay Adjustment:	-58		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	08/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		58	
66	12/10/2009	MAIL NOTICE OF ALLOWANCE			
65	12/07/2009	ISSUE REVISION COMPLETED			
64	12/07/2009	DOCUMENT VERIFICATION			
63	12/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	12/07/2009	EXAMINER'S AMENDMENT COMMUNICATION			
61	12/07/2009	NOTICE OF ALLOWABILITY			
60	09/22/2009	DATE FORWARDED TO EXAMINER			
59	08/10/2009	RESPONSE AFTER NON-FINAL ACTION		33	57
58	08/10/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	04/08/2009	MAIL NON-FINAL REJECTION			
56	04/07/2009	NON-FINAL REJECTION			
55	04/02/2009	DATE FORWARDED TO EXAMINER			
54	03/27/2009	RCE- AF PROCESSED			
53	04/02/2009	DATE FORWARDED TO EXAMINER			
52	03/27/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	04/02/2009	DISPOSAL FOR A RCE / CPA / R129			
50	03/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	03/30/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
48	03/30/2009	MAIL ADVISORY ACTION (PTOL - 303)			
47	03/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	03/26/2009	ADVISORY ACTION (PTOL-303)			
45	03/24/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
44	01/15/2009	MAIL ADVISORY ACTION (PTOL - 303)			
43	01/14/2009	ADVISORY ACTION (PTOL-303)			
42	01/12/2009	DATE FORWARDED TO EXAMINER			
41	01/08/2009	AMENDMENT AFTER FINAL REJECTION			
40	10/28/2008	MAIL FINAL REJECTION (PTOL - 326)			
39	10/27/2008	FINAL REJECTION			
38	08/23/2008	DATE FORWARDED TO EXAMINER			
37	07/21/2008	RESPONSE AFTER NON-FINAL ACTION			
36	04/22/2008	MAIL NON-FINAL REJECTION			
35	04/21/2008	NON-FINAL REJECTION			
29	02/06/2008	CORRESPONDENCE ADDRESS CHANGE			
28	02/06/2008	DATE FORWARDED TO EXAMINER			
27	01/28/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
26	02/06/2008	DATE FORWARDED TO EXAMINER			
25	01/28/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
24	02/06/2008	DISPOSAL FOR A RCE / CPA / R129			
23	01/28/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
22	10/31/2007	MAIL FINAL REJECTION (PTOL - 326)			
21	10/29/2007	FINAL REJECTION			
20	08/15/2007	NEW OR ADDITIONAL DRAWING FILED			
19	08/23/2007	DATE FORWARDED TO EXAMINER			
18	08/15/2007	RESPONSE AFTER NON-FINAL ACTION			
17	07/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	05/18/2007	MAIL NON-FINAL REJECTION	416		-1
15	05/14/2007	NON-FINAL REJECTION			
14	04/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	03/21/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
12	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	02/28/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

10	02/28/2006	CORRESPONDENCE ADDRESS CHANGE			
9	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
8	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
7	03/05/2005	APPLICATION RETURN FROM OIPE			
6	03/05/2005	APPLICATION RETURN TO OIPE			
5	03/05/2005	APPLICATION DISPATCHED FROM OIPE			
4	03/07/2005	APPLICATION IS NOW COMPLETE			
3	02/19/2005	CLEARED BY OIPE CSR			
2	02/15/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/28/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to OASIS | Home page

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under 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)
7,310,416	2007-12-18	11/045,677	2005-01-28	H-120

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 K. Tendler/	Date (YYYY-MM-DD)	2012-04-18
Name	Robert K. Tendler	Registration Number	24581

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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Alexandria, VA 22313-1450
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In re Patent No. 7310416
Issue Date: December 18,2007
Application No. 11045677
Filed: January 28,2005
Attorney Docket No. 3052/120

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

This is a decision on the electronic petition, filed April 18,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 18,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TUALATIN OR 97062

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Gass, et al.	:	
Application No. 11/045,972	:	ON REQUEST FOR
Filed: January 28, 2005	:	RECONSIDERATION OF
Attorney Docket Number: SDT 352	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 17, 2010. Applicants believe that they should be accorded an additional PTA of 504 days. Applicants request this correction in part on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

However, Applicants point out that the Office should have been accorded additional days of delay for not timely filing an Office action pursuant to 37 CFR 1.702(a)(2). A review of the file reveals that Applicants filed a reply on April 17, 2009 (not August 26, 2009 as reflected in PALM). In response, the Office mailed a final Office action on November 12, 2009, and as such, should have been assessed delay of 87 days.

In addition, Applicants argue that they should not have been assessed 176 days of Applicant delay for filing a response on August 26, 2009, as it was actually filed on April 17, 2009. Applicants are correct; however, Applicants have ignored the delay that should have been assessed pursuant to 37 CFR 1.704(c)(7) for filing a reply containing an omission. Applicants filed a reply to a September 3, 2008 non-final Office action on March 3, 2009, and were properly assessed applicant delay of 90 days. However, the Office mailed a Notice of Non-Compliant Amendment on April 10, 2009, Applicants filed a proper reply on April 17, 2009. Accordingly, pursuant to 37 CFR 1.704(c)(7), 55 days of additional applicant delay should have been assessed.

In view thereof, the correct determination of PTA prior to issuance is **one hundred sixty-seven (167) days** (408 (321+87) days of PTO delay, reduced by 241 (96+90+55) days of Applicant delay).

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen

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

Patent Term Adjustments

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

Application Number*: 11045972 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11045972

Application Filing Date	01/28/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	321
A Delays	321	PTO Manual Adjustment	208
B Delays	0	Applicant Delay (APPL)	362
C Delays	0	Total PTA (days)	167

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
126	09/30/2010		P028	Adjustment of PTA Calculation by PTO	23		0
125	09/30/2010		P028	Adjustment of PTA Calculation by PTO	195		0
111	02/17/2010		MN/=.	Mail Notice of Allowance			0
110	02/04/2010		IREV	Issue Revision Completed			0
109	02/04/2010		DVER	Document Verification			0
108	02/04/2010		N/=.	Notice of Allowance Data Verification Completed			0
106	02/02/2010		EX.A	Examiner's Amendment Communication			0
105	02/01/2010		CNTA	Notice of Allowability			0
107	01/13/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
101	11/12/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
100	11/09/2009		CTFR	Final Rejection			0
98	08/26/2009		FWDX	Date Forwarded to Examiner			0
97	08/26/2009	03/03/2009	A...	Response after Non-Final Action		176	89
96	08/26/2009		XT/G	Request for Extension of Time - Granted			0
93	04/10/2009		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
90	04/09/2009		FWDX	Date Forwarded to Examiner			0
99	03/03/2009		IDSC	Information Disclosure Statement considered			0
92	03/03/2009		RCAP	Reference capture on IDS			0
91	03/03/2009		M844	Information Disclosure Statement (IDS) Filed			0
89.1	03/03/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
89	03/03/2009	12/03/2008	A...	Response after Non-Final Action		90	86
88	03/03/2009		XT/G	Request for Extension of Time - Granted			0
87	03/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
86	09/03/2008		MCTNF	Mail Non-Final Rejection			0
85	09/02/2008		CTNF	Non-Final Rejection			0
80	08/19/2008		FWDX	Date Forwarded to Examiner			0
78	08/19/2008		FWDX	Date Forwarded to Examiner			0
76	08/19/2008		ABN9	Disposal for a RCE / CPA / R129			0
84	08/11/2008		IDSC	Information Disclosure Statement considered			0
82	08/11/2008		RCAP	Reference capture on IDS			0
81	08/11/2008		M844	Information Disclosure Statement (IDS) Filed			0
79	08/11/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
77	08/11/2008	05/07/2008	RCEX	Request for Continued Examination (RCE)		96	72
75	08/11/2008		XT/G	Request for Extension of Time - Granted			0
74	08/11/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
73	08/11/2008		BRCE	Workflow - Request for RCE - Begin			0
72	02/07/2008		MSFR.	Mail Supplemental Final Rejection			0
71	02/04/2008		SFR.	Supplemental Final Rejection			0
70	01/31/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
65	11/01/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
64	10/29/2007		CTFR	Final Rejection			0
62	08/17/2007		FWDX	Date Forwarded to Examiner			0
61	08/14/2007		A...	Response after Non-Final Action			0
56	05/14/2007		MCTNF	Mail Non-Final Rejection			0
55	05/10/2007		CTNF	Non-Final Rejection			0
51	03/01/2007		FWDX	Date Forwarded to Examiner			0
50	02/15/2007		A...	Response after Non-Final Action			0
49	02/12/2007	03/28/2006	MCTNF	Mail Non-Final Rejection	321		-1
54	02/08/2007		IDSC	Information Disclosure Statement considered			0
53	02/08/2007		RCAP	Reference capture on IDS			0
52.7	02/08/2007		M844	Information Disclosure Statement (IDS) Filed			0
52	02/08/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
48	02/05/2007		CTNF	Non-Final Rejection			0
39	01/04/2007		MPTDI	Mail-Petition Decision - Dismissed			0
42	12/15/2006		IDSC	Information Disclosure Statement considered			0
41	12/15/2006		RCAP	Reference capture on IDS			0
40.7	12/15/2006		M844	Information Disclosure Statement (IDS) Filed			0
40	12/15/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
35	09/21/2006		DOCK	Case Docketed to Examiner in GAU			0
38	08/15/2006		PET.	Petition Entered			0
34	08/15/2006		LET.	Miscellaneous Incoming Letter			0
33	08/08/2006		MPTDI	Mail-Petition Decision - Dismissed			0
58	07/05/2006		IDSC	Information Disclosure Statement considered			0
57	07/05/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
43	07/03/2006		IDSC	Information Disclosure Statement considered			0
32	07/03/2006		PET.	Petition Entered			0
31	07/03/2006		RCAP	Reference capture on IDS			0
30.7	07/03/2006		M844	Information Disclosure Statement (IDS) Filed			0
30	07/03/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
29	07/03/2006		A.PE	Preliminary Amendment			0
67	03/12/2006		IDSC	Information Disclosure Statement considered			0
66	03/12/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
44	03/12/2006		IDSC	Information Disclosure Statement considered			0
26.7	03/12/2006		EIDS.	Electronic Information Disclosure Statement			0
26	03/12/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
45	01/20/2006		IDSC	Information Disclosure Statement considered			0
25	01/20/2006		RCAP	Reference capture on IDS			0
24.7	01/20/2006		M844	Information Disclosure Statement (IDS) Filed			0
24	01/20/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
47	10/08/2005		IDSC	Information Disclosure Statement considered			0
22.7	10/08/2005		EIDS.	Electronic Information Disclosure Statement			0
22	10/08/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
46	10/05/2005		IDSC	Information Disclosure Statement considered			0
23.7	10/05/2005		M844	Information Disclosure Statement (IDS) Filed			0
23	10/05/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
21.7	07/23/2005		EIDS.	Electronic Information Disclosure Statement			0
21	07/23/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
60	06/07/2005		IDSC	Information Disclosure Statement considered			0

Documentation Explorer

S9	06/07/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
20.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
20	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
19.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
19	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
18.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
18	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
17.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
17	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
16.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
16	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
15.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
15	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
14.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
14	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
13.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
13	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
12.7	06/06/2005	EIDS.	Electronic Information Disclosure Statement	0
12	06/06/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
10.7	04/27/2005	M844	Information Disclosure Statement (IDS) Filed	0
10	04/27/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
9	03/28/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
8	03/28/2005	DOCK	Case Docketed to Examiner in GAU	0
4	03/07/2005	COMP	Application Is Now Complete	0
7	03/05/2005	WRQIPE	Application Return from OIPE	0
6	03/05/2005	ROIPE	Application Return TO OIPE	0
5	03/05/2005	OIPE	Application Dispatched from OIPE	0
3	02/19/2005	L194	Cleared by OIPE CSR	0
2	02/15/2005	SCAN	IFW Scan & PACR Auto Security Review	0
1	01/28/2005	IEXX	Initial Exam Team nn	0

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/04/2010

Applicant	: Hiroshi Matsushima	: DECISION ON REQUEST FOR
Patent Number	: 7641817	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/045,974	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **439** 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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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Allen et al.	:	DECISION ON PETITION
Application No. 11/046,224	:	TO WITHDRAW
Filed: January 28, 2005	:	FROM RECORD
Attorney Docket No. QQ1 – 0050US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on January 25, 2011.

The request is **NOT APPROVED**.

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

Customer Number 55922 was indicated as the future correspondence address, however as it is not that of the first named inventor or the assignee of record, the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) cannot be approved at this time. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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

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

In re Application of	:	
Krawiec et al.	:	ON APPLICATION FOR
Application No. 11/046,377	:	PATENT TERM ADJUSTMENT
Filed: January 28, 2005	:	
Attorney Dkt. No. 088245-6046	:	
For: SCALABLE 2X2 ROTATION	:	
PROCESSOR FOR SINGULAR VALUE	:	
DECOMPOSITION	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed February 25, 2011. Applicants request that the determination of patent term adjustment be corrected from seven hundred eighty-four (784) days to one thousand thirty-eight (1,038) 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. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

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

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

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

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

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

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

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

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

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

Charlema Grant
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/8/2011

TO SPE OF : ART UNIT 2193 Bullock Jr Lewis (R)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/046377 Patent No.: 7937425

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: _____

LEWIS A. BULLOCK JR.
SUPERVISORY PATENT EXAMINER

SPE — 2193 **Art Unit**

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

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
MOHSENIAN, NADER :
Application No. 11/046,445 : ON APPLICATION FOR
Filed: 01/28/2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 16294US01 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR §1.705), filed January 27, 2011, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1716 days, not 1056 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 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 correctness of the patent term adjustment until the patent has issued.

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

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]

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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.

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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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)
7331360	2008-02-19	11046494	2005-01-28	TC0105

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	/michaelries/	Date (YYYY-MM-DD)	2012-03-26
Name	Michael Ries	Registration Number	53518

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7331360
Issue Date: February 19,2008
Application No. 11046494
Filed: January 28,2005
Attorney Docket No. TC0105

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

This is a decision on the electronic petition, filed March 26,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 26,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AUG 12 2011
OFFICE OF PETITIONS

FRESENIUS/NUTTER, MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

In re Patent No. 7,935,070	:	
Issue Date: May 03, 2011	:	
Application No. 11/046,667	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 106114-0002	:	

This is a decision on the petition, filed, May 27, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Fresenius Medical Care Holdings, INC." and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Fresenius Medical Care Holdings, INC." is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

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OFFICE OF PETITIONS

In re Application of:	:	
Yamamoto et al.	:	
Pat. Num.: 7,393,203	:	
Issue Date: 07/01/2008	:	
Application No. 11/046787	:	ON PETITION
Filing or 371(c) Date: 02/01/2005	:	
Atty. Docket No. 2005_0151A	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182 for Issuance of Duplicate Letters Patent, filed April 14, 2010.

The petition is **GRANTED**.

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

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer, in the Office of Data Management at (703) 308-9250, Ext. 119.

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

/DW/

Derek Woods
Attorney
Office of Petitions

CC: Niomi Farmer
South Tower 8th floor, Room C-32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
MAR 12 2012
OFFICE OF PETITIONS

In re Application
Verma, et al.
Application No. 11/046,805
Filing or 371(c) Date: February 1, 2005
Dkt. No.: 088245-1150

: PATENT TERM ADJUSTMENT

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed February 8, 2012.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,142 days, not 802 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). The request for refund of the application fee is DISMISSED as the submission of the fee is a prerequisite prior to decision on the merits of the request for reconsideration of patent term adjustment.

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.

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	11046967
Filing Date	31-Jan-2005
First Named Inventor	Dharma Shukla
Art Unit	3623
Examiner Name	ERNEST JACKSON
Attorney Docket Number	MS#309844.03 (5140.2)
Title	EXTENSIBLE FRAMEWORK FOR DESIGNING WORKFLOWS

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	/Adam L. Bagwell/
Name	Adam L. Bagwell
Registration Number	67043

UNITED STATES 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 29, 2011

In re Application of :

Dharma Shukla

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11046967

Filed : 31-Jan-2005

Attorney Docket No : MS#309844.03 (5140.2)

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 29, 201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

This application file is being referred to Technology Center AU 3623 for processing of the request for continuing examination under 37 CFR 1.114 .

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

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

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,512,744
Issue Date: March 31, 2009
Application No. 11/047,083
Filed: January 31, 2005
Attorney Docket No. 112056-0023C1

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

This is a decision on the petition, filed September 8, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/035,666, filed December 28, 2001, by way of a certificate of correction.

The instant petition is not signed by an attorney of record[1]. However, in accordance with 37 CFR 1.34(a), the signature of A. Sidney Johnston appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

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 31, 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;

[1] The Power of Attorney filed on January 31, 2005 was not accepted, because it failed to comply with 37 CFR 1.32(c)(3), which states in part "Except as provided in paragraph (c)(1) or (c)(2) of this section, the Office will not recognize more than ten patent practitioners as being of record in an application or patent. If a power of attorney names more than ten patent practitioners, such power of attorney must be accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office as being of record in the application or patent to which the power of attorney is directed."

(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.

Since the Certificate of Correction fee of $100 is required, as authorized, that fee has been charged to petitioner's Deposit Account.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/047,083	01/31/2005	2187	1500	112056-0023C1	1	1

CONFIRMATION NO. 3200

CORRECTED FILING RECEIPT

24267
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

OC000000045483371

Date Mailed: 01/14/2011

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

Applicant(s)

Gaurav Banga, Sunnyvale, CA;
Mark Smith, Cupertino, CA;
Mark Muhlestein, Tuscon, AZ;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/035,666 12/28/2001 PAT 6,895,429

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: 03/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/047,083**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

TECHNIQUE FOR ENABLING MULTIPLE VIRTUAL FILERS ON A SINGLE FILER TO PARTICIPATE IN MULTIPLE ADDRESS SPACES WITH OVERLAPPING NETWORK ADDRESSES

Preliminary Class

709

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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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Marshall Field, et al. :
Application No. 11/047,152 : ON PETITION
Filed: January 31, 2005 :
Attorney Docket No.: 200405424-1 :

This is a decision on the petition, filed February 10, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b). The requisite $1,620 petition fee is being charged to counsel's deposit account, as authorized.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Steven L. Nichols appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fee and publication fee on or before January 14, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 14, 2010. A Notice of Abandonment was subsequently mailed on January 31, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
JOHNSON, et al	:	
Application No. 11/047,181	:	DECISION ON PETITION
Filed: January 31, 2005	:	
Docket No. PU050021	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 18, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2622 for appropriate action by the Examiner in the normal course of business.

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

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WILLIAM W. HAEFLIGER
201 S. LAKE AVE
SUITE 512
PASADENA CA 91101

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,135,006	:	
Issue Date: November 14, 2006	:	
Application No. 11/047,529	:	DECISION ON PETITION
Filed: February 01, 2005	:	
Attorney Docket No. 12,690	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed January 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 February 17, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

Mail Date: 08/06/2010

Applicant	: Pil-Sang Yoon	: DECISION ON REQUEST FOR
Patent Number	: 7656564	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/047,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1188** 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/06/2010

Applicant	: Pil-Sang Yoon	: DECISION ON REQUEST FOR
Patent Number	: 7656564	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/047,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1188** 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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COURTNEY STANIFORD & GREGORY LLP
PO BOX 9807
SAN JOSE, CA 95157

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of
Xiaochun et al.
Application No. 11/047,804
Filed: January 31, 2005
Attorney Docket No. DIOD.P002

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 15, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay.

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. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. 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.

A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2823 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: BARBARA COURTNEY
P.O. BOX 9686
SAN JOSE, CA 95157

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AUG 02 2010

OFFICE OF PETITIONS

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

In re Application of John Hayden Larue, Jr., et al. Application No. 11/047,878 Filed: February 1, 2005 Attorney Docket No. 020837.0102PTUS	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 25, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

The request cannot be approved because practitioners were appointed by customer number. Practitioners must withdraw in the same manner that they were appointed.

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

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

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

cc: MEDICAL CONTRACTING SERVICES, INC.
10300 N. CENTRAL EXPRESSWAY
SUITE 470
DALLAS, TX 75231-8600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTON BOGGS, LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
John Hayden Larue, Jr. et al.	:	
Application No. 11/047,878	:	DECISION ON PETITION
Filed: February 1, 2005	:	TO WITHDRAW
Attorney Docket No. 020837.0102PTUS	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 18, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Matthew J. Laskoski on behalf of all attorneys of record who are associated with customer No. 32042. All attorneys/agents associated with the Customer Number 32042 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely pay the issue fee and publication fee indicated in the Notice of Allowance and Fee(s) Due mailed May 27, 2010.

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

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

cc: MEDICAL CONTRACTING SERVICES, INC
10300 N. CENTRAL EXPRESSWAY
SUITE 470
DALLAS, TX 75231-8600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/047,878	02/01/2005	John Hayden LaRue JR.	020837.0102PTUS

CONFIRMATION NO. 6169

POWER OF ATTORNEY NOTICE

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

OC000000043716277

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/18/2010.

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

/amwise/

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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of
Jay Rodney Walton et al
Application No. 11/047,917
Filed: January 31, 2005
Attorney Docket No. 040494

ON PETITION

This is a decision on the petitions filed March 31, 2011 under 37 CFR 1.137(b), to revive the above-identified application and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) 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 payment of the Issue fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The petition under 37 CFR 1.313(c)(2) 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 31, 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 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,245	01/31/2005	Robert P. Morris	1285/US	8111

49278 7590 01/11/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
CHEEMA, AZAM M

ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 01/11/2011

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

Theodosis Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/048,245 Filed: January 31, 2005 For: METHOD FOR USING WELL-KNOWN NAMES FOR LOCATING LOCAL RESOURCES ON MULTIPLE LOCAL NETWORKS	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 02 November 2010.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 02 November 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) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,245	01/31/2005	Robert P. Morris	1285/US	8111

49278 7590 04/13/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
CHEEMA, AZAM M

ART UNIT	PAPER NUMBER
2166	

MAIL DATE	DELIVERY MODE
04/13/2011	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

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P.O. Box 1450
Alexandria, VA 22313-1450
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Theodosis Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/048,245 Filed: January 31, 2005 For: METHOD FOR USING WELL-KNOWN NAMES FOR LOCATING LOCAL RESOURCES ON MULTIPLE LOCAL NETWORKS	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 11 April 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 11 April 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) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,245	01/31/2005	Robert P. Morris	1285/US	8111

49278 7590 08/01/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
CHEEMA, AZAM M

ART UNIT	PAPER NUMBER
2166	

MAIL DATE	DELIVERY MODE
08/01/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Theodosis Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/048,245 Filed: January 31, 2005 For: METHOD FOR USING WELL-KNOWN NAMES FOR LOCATING LOCAL RESOURCES ON MULTIPLE LOCAL NETWORKS	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 July 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 July 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) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,245	01/31/2005	Robert P. Morris	1285/US	8111

49278 7590 11/04/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
CHEEMA, AZAM M

ART UNIT	PAPER NUMBER
2166	

MAIL DATE	DELIVERY MODE
11/04/2011	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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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/048,245
Filed: January 31, 2005
For: METHOD FOR USING WELL-KNOWN NAMES FOR LOCATING LOCAL RESOURCES ON MULTIPLE LOCAL NETWORKS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 01 November 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 01 November 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) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,245	01/31/2005	Robert P. Morris	I285/US	8111

49278 7590 02/13/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
CHEEMA, AZAM M

ART UNIT	PAPER NUMBER
2166	

MAIL DATE	DELIVERY MODE
02/13/2012	PAPER

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

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

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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/048,245
Filed: January 31, 2005
For: METHOD FOR USING WELL-KNOWN NAMES FOR LOCATING LOCAL RESOURCES ON MULTIPLE LOCAL NETWORKS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 07 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 07 February 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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Commissioner for Patents
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AKA CHAN LLP / ORACLE
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:	
MORLEY, Todd M.	:	
Application No. 11/048,258	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. **ORACP029**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 22, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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)
7256696	2007-08-14	11048339	2005-01-31	10527/18

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	/Gary D. Colby/	Date (YYYY-MM-DD)	2011-09-15
Name	Gary D. Colby, Ph.D., J.D.	Registration Number	40961

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. 7256696
Issue Date: August 14,2007
Application No. 11048339
Filed: January 31,2005
Attorney Docket No. 10527/18

:

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

:

This is a decision on the electronic petition, filed September 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 September 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 : 03/04/10

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11048398 Patent No.: 7082212

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.

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
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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: _____

_____

_____

_____

_____

SPE

2624
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

COURTNEY STANIFORD & GREGORY LLP
PO BOX 9807
SAN JOSE, CA 95157

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Xiaochun et al.	:	
Application No. 11/048,460	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. DIOD.P003	:	

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 file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 16, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 17, 2010. A Notice of Abandonment was mailed September 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2818 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.

A Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: BARBARA COURTNEY
716 UNIVERSITY AVENUE, SUITE 216
LOS GATOS, CA 95032

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/02/10

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11048656 Patent No.: 7405233

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

Joseph K. McKane _____ **1626**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
SEP 28 2010
OFFICE OF PETITIONS

In re Application of	:	
WERNER et al.	:	
Application No. 11/048,700	:	DECISION ON PETITION
Filed: 02/03/2005	:	
Docket No. 09282.0031-00	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed May 24, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely and proper manner to the final Office action of September 22, 2009, which set a three-month shortened statutory period for reply. A Notice of Abandonment was mailed on April 14, 2010.

Petitioners assert that they submitted a timely reply with a request for an extension of time for response within the first month and fee. To support this assertion, petitioner has submitted a copy of a date-stamped return receipt postcard, acknowledging receipt of a Request for Continued Examination and Petition for an Extension of Time in the USPTO on January 22, 2010.

The reply and the request for an extension of time for response, which the USPTO acknowledged as received on January 22, 2010, are not of record in the application file and have not been located to date. However, MPEP 503 states "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply and the request for an extension of time for response within the first month were timely received in the USPTO but lost after receipt thereof.

Copied from 11408700 on 10/05/2010

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The Office will accept the copy of the reply and the request for an extension of time for response within the first month supplied with the petition in place of that shown to have been received in the USPTO on January 22, 2010. The Office will charge the RCE and extension of time fees to the Deposit Account as authorized.

This application is being referred to Technology Center AU 2166 for appropriate action on the reply received with petition.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Copied from 11408700 on 10/05/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAILED

NOV 01 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Robert F. Baugh, et al.	:	
Application No. 11/049,010	:	NOTICE
Filed: Februry 2, 2005	:	
Attorney Docket No.: 37272-505C05US	:	

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 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 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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)
7177725	2007-02-13	11049137	2005-02-02	LSP101US

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	/Thomas G. Eschweiler/	Date (YYYY-MM-DD)	2011-04-27
Name	Thomas G. Eschweiler	Registration Number	36981

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. 7177725
Issue Date: February 13,2007
Application No. 11049137
Filed: February 2,2005
Attorney Docket No. LSP101US

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

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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CHURCH & DWIGHT CO., INC.
LAW DEPT. - PATENTS
469 NORTH HARRISON STREET
PRINCETON, NJ 08543-5297

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,331,309	:	
Issued: 02/19/2008	:	
Application No. 11/049,140	:	NOTICE
Filed: 02/01/2005	:	
Title: CLUMPING ANIMAL LITTER	:	
COMPOSITION AND METHOD OF	:	
PRODUCING THE SAME	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 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) 272-3211.

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.
11/049,216	02/02/2005	Adalbert Hanssen	4965-205/CO	8312

27572 7590 09/23/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
SZEWCZYK, CYNTHIA

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
09/23/2010	PAPER

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

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

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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wk

Mailed:

SEP 23 2010

In re application of
Hanssen
Serial No. 11/049,216
Filed: February 02, 2005
For: PROCESS AND AN APPARATUS FOR CHIP-CUTTING PLASTIC MATERIAL OPTICAL LENSES

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on August 17, 2010 to withdraw the finality of the Office Action mailed June 8, 2010. An Advisory was mailed on August 12, 2010. The Examiner for the first time in the Final Rejection rejected claims 1-4, 7 and 10-14 under 35 USC 103(a) as being patentable over Ono et al. in view of Weber. The Weber reference was newly cited and applied for the first time as the basis for rejection. The Examiner stated that Applicant's amendment necessitated the new grounds.

Applicant amended independent claims 1 and 12. Claim 1 was amended from "cooling down said point of chip-cutting" to cooling down ***only*** said point of chip-cutting". Claim 12 was amended from "and said point of chip-cutting" to and ***wherein only*** said point of chip-cutting". Before the amendment was filed, claims 2, 3, 5, 6, 10 depend from claim1. Claims 13 and 14 depend from claim 12.

Applicant asserts that the amendments made to independent claims 1 and 12 added no new limitations that were not already present in the dependent claims. Further, none of the dependent claim 10-11 or 13-14 was previously rejected based upon the combination of Ono et al. and Weber. Applicant asserts that Applicant's amendments could not have necessitated the new ground of rejection and that the newly cited Weber reference was not applied by the Examiner for any reason related to the amendments to claims 1 and 12.

MPEP 706.07(a) states that 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).

A review of the record indicates that the Final Office Action introduces a new reference not necessitated by Applicant's amendment.

DECISION

The petition is **GRANTED**.

The finality of the June 8, 2010 is withdrawn. The period for response will continue run from the mail date of June 8, 2010.

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

Christopher M. Brock
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

MAILED
MAR 31 2011
OFFICE OF PETITIONS

In re Application of :
Marie-Cecile Van De Lavoir, et al. :
Application No. 11/049,229 : DECISION ON PETITION
Filed: February 1, 2005 :
Attorney Docket No. 700603.4002 :

This is a decision on the petition, filed January 24, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 14, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 14, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on October 14, 2010, which included the following papers: an amendment and a request for a three (3) month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated October 14, 2010, which would have rendered the reply timely if received. The original reply is in the file.

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 April 14, 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 1632 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
NOV 04 2011
OFFICE OF PETITIONS

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
14TH FLOOR
IRVINE CA 92614

In re
Dinwoodie
Application No. 11/049,260
Filed: February 2, 2005
Patent No. 7,328,534
Issued: February 12, 2008

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 6, 2011.

The fee deficiency submission under 37 CFR 1.28 of $640 for the 3.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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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KILPATRICK TOWNSEND & STOCKTON, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

APR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey S. Beam	:	
Application No. 11/049,272	:	DECISION ON PETITION
Filed: February 2, 2005	:	TO WITHDRAW FROM
Attorney Docket No. 026808-002900US	:	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 **APPROVED**.

The request was signed by David A. Hall on behalf of himself and all the attorneys/agents associated with Customer Number 20350. Therefore, David A. Hall and all the attorneys/agents associated with Customer Number 20350 have been withdrawn.

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

All future communications from the Office will be directed to the intervening assignee who complied with the requirements of 37 CFR 3.73(b) at the address listed below until otherwise properly notified by the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: American Power Conversion Corporation c/o Shane Hunter
Gilman Clark, LLC
176 Federal Street, 4th Floor
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/049,272	02/02/2005	Jeffrey S. Beam	026808-002900US

CONFIRMATION NO. 1836

POWER OF ATTORNEY NOTICE

20350
KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000047224830

Date Mailed: 04/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/31/2011.

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

/amsmith/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/049,391	02/03/2005	Warren C. Fry		1076

7590 07/29/2011

Warren C. Fry
108 Lebanon Church Road
Pittsburgh, PA 15236

EXAMINER
RAHIM, AZIM

ART UNIT	PAPER NUMBER
3784	

MAIL DATE	DELIVERY MODE
07/29/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte WARREN C. FRY

Appeal 2009-011827
Application 11/049,391
Technology Center 3700

DECISION ON PETITION

This is a decision based on the paper filed July 5, 2011 (hereinafter "Request"). The Request asks for a two-month extension of time in order to file a response to the Decision of the Board of Patent Appeals and Interferences mailed May 26, 2011.

FINDINGS

1) On February 7, 2008, Appellant filed a Notice of Appeal.

2) On March 12, 2008, Appellant filed an Appeal Brief.

3) On June 2, 2008, an Examiner's Answer was mailed to Appellant.

4) The Examiner's Answer contains a new ground of rejection.

5) On June 27, 2008, Appellant filed his Reply Brief.

6) On February 23, 2009, the Examiner considered the Reply Brief.

7) On June 18, 2009, a Board of Appeals and Interferences Docketing Notice was mailed to Appellant.

8) On May 26, 2011, the Board of Appeals mailed a Decision to Appellant, reversing the claims on appeal, and entering new grounds of rejection.

9) On July 5, 2011, Appellant filed his request.

10) Appellant, in his Request states:

> On May 21st at UPMC Mercy Hospital I underwent surgery for left knee replacement. On May 26th I was then sent to the Manor Care Nursing Home for physical therapy. While in the Nursing Home my wife informed me on June 8th I had a communication from the U.S. Patent department informing my receipt of a letter containing decisions made by the Board of Patent Appeals.

11) Appellant further states that he was released from the Nursing Home on June 12, 2011.

12) Appellant also has indicated that he has misplaced his copy of the Decision.

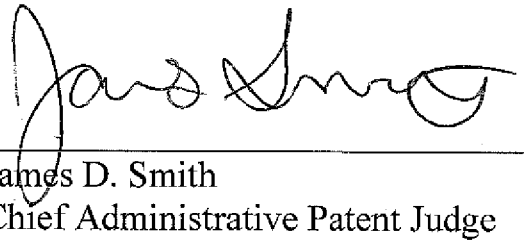
13) The fee for filing a request for an extension of time is $200. See 37 CFR§1.17(g).

DISCUSSION

In view of the fact that Appellant has not filed the required fee, the request must be **dismissed.** Appellant will be given a period of two weeks to file a request with the required fee. In addition, a copy of the decision is provided for Appellant's convenience.

DECISION

In view of the foregoing, the Petition is DISMISSED.



James D. Smith
Chief Administrative Patent Judge

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/049,391	02/03/2005	Warren C. Fry		1076

7590 05/26/2011

Warren C. Fry
108 Lebanon Church Road
Pittsburgh, PA 15236

EXAMINER
RAHIM, AZIM

ART UNIT	PAPER NUMBER
3784	

MAIL DATE	DELIVERY MODE
05/26/2011	PAPER

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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 WARREN C. FRY

Appeal 2009-011827
Application 11/049,391
Technology Center 3700

Before: WILLIAM F. PATE III, JENNIFER D. BAHR, and WILLIAM V. SAINDON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-22. We have jurisdiction under 35 U.S.C. § 6(b).

The Invention

Claim 1, reproduced below, is illustrative of the claimed subject matter.

> 1. A method of controlling an air conditioner unit comprising:
> (a) measuring an enclosed space temperature of an enclosed space;
> (b) selecting a user desired temperature-set;
> (c) controlling the air conditioner unit cooling on time and the unit off time dependent upon the temperature difference between the enclosed space temperature and the desired temperature-set to reduce heat within the enclosed space to maintain the difference between the enclosed space temperature and the desired temperature-set during the unit cooling on time.

References

The Examiner relies upon the following prior art references:

Knoll	US 4,293,028	Oct. 6, 1981
Grald	US 4,889,280	Dec. 26, 1989
Khadkikar	US 6,079,121	Jun. 27, 2000

Rejections

I. Claims 1-7, 10-15, and 17-22 are rejected under 35 U.S.C. § 102(b) as anticipated by Grald.

II. Claims 16 and 17 are rejected under 35 U.S.C. § 103(a) as unpatentable over Grald and Knoll.

III. Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as unpatentable over Grald and Khadkikar.

SUMMARY OF DECISION

We REVERSE and enter NEW GROUNDS of REJECTION.

OPINION

Reviewing the record before us, Appellant and the Examiner are in disagreement over limitation (c) in independent claims 1 and 19, requiring control of (or means to control) an air conditioner unit's cooling on and off time depending on the temperature difference between the temperature of an enclosed space (e.g., a room) and a temperature-set (e.g., thermostat set point). *See, e.g.,* Appeal Br. 9-10; Ans. 13-14. In particular, the control "reduce[s] heat within the enclosed space to maintain the difference" between the two temperatures "during the unit cooling on time." An analysis of the claim language reveals that the root cause of the dispute between the Examiner and Appellant is likely because claims 1 and 19 are indefinite.

The primary purpose of the definiteness requirement is to ensure that the claims are written in such a way that they give notice to the public of the extent of the legal protection afforded by the patent, so that interested members of the public, e.g., competitors of the patent owner, can determine whether or not they infringe. *All Dental Prodx, LLC v. Advantage Dental Prods., Inc.*, 309 F.3d 774, 779-80 (Fed. Cir. 2002). If the language of a claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. § 112, second paragraph, is appropriate. *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986); *Datamize, LLC v. Plumtree Software, Inc.*, 417 F.3d 1342, 1350 (Fed. Cir. 2005) ("Some objective standard must

be provided in order to allow the public to determine the scope of the claimed invention."). In addition, if the claims are inherently inconsistent with the description, definitions, and examples appearing in the specification, a rejection of the claim under 35 U.S.C. § 112, second paragraph, is likewise appropriate. *In re Cohn*, 438 F.2d 989, 993 (CCPA 1971). Because Appellant has the opportunity to amend the claims during prosecution, broad interpretation reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969); *see also Ex parte Miyazaki*, 89 USPQ2d 1207, 1212 (BPAI 2008) (adopting a lower threshold for ambiguity of claims during prosecution).

Reviewing claims 1 and 19, we note that the claimed method and system would actually prevent cooling below the measured space temperature. According to the claims, once the two temperatures are measured, the difference is maintained, not reduced. Thus, if a room is 75°F and the set point is 70°F, the 5°F difference must be maintained. If the room begins heating, the air conditioning must immediately cool the room to maintain the 5°F difference. If the room begins cooling, the air conditioning must immediately heat the room to likewise maintain the 5°F difference. Thus, the first ambiguity in this claim is that the air conditioner is required to "reduce heat" to maintain the difference, but if the room begins cooling, the air conditioner cannot heat the room by reducing heat. Similar anomalies occur upon changes to the temperature-set.

An inconsistency in claims 1 and 19 becomes apparent when reading the claims in light of the Specification. While the claims require the air conditioning unit to "maintain the difference," i.e., not allow the enclosed space temperature to approach or diverge from the temperature-set, the

Specification describes something different. We do not find any disclosure in the Specification or claims as originally filed describing a particular control scheme for the unit to "maintain the difference" during a cooling cycle as claimed. Instead, the Specification describes that the unit operates by controlling the cooling on and off time based on the temperature difference. Spec. 9 ("cooling on and off time [is] a function of [the temperature difference]"). In particular, looking at figure 3B, a combination of temperature, temperature-set, and humidity are scaled to provide V1, indicating the difference between temperature and temperature-set. Spec. 7. This V1 is fed into the circuit of figure 3C, wherein V1 is split into V2 (representing a curved, or scaled, V1, *see also, e.g.,* fig. 6) and through circuitry causing V1 to be a positive value when temperature is greater than or equal to temperature-set, called V1 >= MIN (confusingly, at times also referred to as "V1"). *Id.* When V1 >= MIN is high, cooling is initiated; when V1 >=MIN is low, cooling is stopped, unless certain time constraints are not met. Spec. 7-8. Thus, the air conditioning unit will stop cooling when there is no difference between the temperature and temperature-set, i.e., the room has been cooled to the temperature-set. This is a typical thermostat operation. In addition, however, an "on time stop" (i.e. stop current cooling cycle) circuit stops cooling when a timer circuit hits a specified limit, unless V2 (scaled temperature difference) is over a certain amount, at which time the cooling continues until V2 drops below that certain amount. Spec. 8 (presumably, this covers the condition when the room is much hotter than the temperature-set). Thus, through various circuitry depicted in figure 3D, the air conditioner controller provides a duty-cycle based mode of operation when there is a temperature difference between the sensed (enclosed space) temperature and the temperature-set.

See, e.g., Spec. 8-10 (describing a preferred embodiment). Accordingly, when there is a greater temperature difference (i.e., higher V2) the air conditioner runs longer than if there is a lower temperature difference. We find no portions of the Specification discussing a control scheme designed to "maintain the difference" between enclosed space temperature and temperature-set[1]. Instead, the Specification clearly intends the difference between enclosed space temperature and temperature-set to vary.

Consequently, we find that limitations requiring the unit to "maintain the difference between the enclosed space temperature and the desired temperature-set during the unit cooling on time" in claims 1 and 19 are ambiguous and inexplicably inconsistent with the Specification. *See Cohn*, 438 F.2d at 993; *Orthokinetics*, 806 F.2d at 1576. Claims 2-18 and 20-22 depend from claims 1 and 19 and thus contain the same indefinite language. Because claims 1-22 are indefinite, the prior art rejections must fall because they are necessarily based on a speculative assumption as to the meaning of the claims. *See In re Steele*, 305 F.2d 859, 862-63 (CCPA 1962). Accordingly, we do not sustain any of the Examiner's rejections under 35 U.S.C. §§ 102 and 103. It should be understood, however, that our decision in this regard is based solely on the indefiniteness of the claimed subject matter, and does not reflect on the adequacy of the prior art evidence applied in support of the rejection.

As we discuss above, we find no description in the Specification of a device that "maintain[s] the difference between the enclosed space

[1] Such a control scheme would likely require keeping V2 (scaled temperature difference) at a certain voltage, and scaling would likely no longer be necessary as the difference is maintained whether there is a large difference or a small difference.

temperature and the desired temperature-set during the unit cooling on time" as required by claims 1 and 19. The purpose of the written description requirement in 35 U.S.C. § 112, first paragraph, is to convey with reasonable clarity to those skilled in the art that, as of the filing date sought, the applicant was in possession of the invention as now claimed. *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64 (Fed. Cir. 1991). Because we find no such description in the Specification, we find that the application does not convey with reasonable clarity to those skilled in the art that, as of the filing date sought, Appellant was in possession of the invention as now claimed. Claims 2-18 and 20-22 depend from claims 1 and 19 and likewise contain the same unsupported limitations.

NEW GROUNDS OF REJECTION

Pursuant to our authority under 37 C.F.R. § 41.50(b), we reject claims 1-22 under 35 U.S.C. § 112, second paragraph, as indefinite and under § 112, first paragraph, for failing to comply with the written description requirement. As explained above, claims 1 and 19 are ambiguous and inexplicably inconsistent with the Specification. Further, claims 1 and 19 contain limitations not supported by the written description as originally filed. Claims 2-18 and 20-22 depend from claims 1 and 19 and likewise contain the same inconsistency and lack of written description.

DECISION

For the above reasons, we reverse the Examiner's decision regarding claims 1-22 and enter new grounds of rejection for claims 1-22.

FINALITY OF DECISION

This decision contains a new ground of rejection pursuant to 37 C.F.R. § 41.50(b). 37 C.F.R. § 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review." 37 C.F.R. § 41.50(b) also provides that Appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new grounds of rejection to avoid termination of the appeal as to the rejected claims:

> (1) *Reopen prosecution*. Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner....
> (2) *Request rehearing*. Request that the proceeding be reheard under § 41.52 by the Board upon the same record....

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

<u>REVERSED; 37 C.F.R. § 41.50(b)</u>

hh

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/049,507	02/02/2005	Jan Claren	ETH1403USCNT2	1517

7590 06/24/2011
Audley A. Ciamporcero, Jr.
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

EXAMINER
HOPKINS, CHRISTINE D

ART UNIT	PAPER NUMBER
3735	

MAIL DATE	DELIVERY MODE
06/24/2011	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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AUDLEY A. CIAMPORCERO, Jr.
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Patent No. 7,347,813 Issue Date: March 25, 2008 Appl No.: 11/049,507 Filed: February, 02 2005 For: **SURGICAL INSTRUMENT FOR TREATING FEMALE URINARY INCONTINENCE**	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition 07/28/2010 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.

/Miranda Le/
Miranda Le
Supervisory Patent Examiner
Art Unit 3735
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: June 23, 2011
TO: Certificates of Correction Branch
FROM: Miranda Le
SPE, Art Unit 3735
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,347,813 as specified on the attached Certificate.

/Miranda Le/
Miranda Le, SPE
Art Unit 3735

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,347,813
Patented: March 25, 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:

Ulf Ulmsten, Danderyd (SE)

/Miranda Le/
Miranda Le
Supervisory Patent Examiner
Art Unit 3735

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110623

DATE : June 23, 2011

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,347,813

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:

This is a decision on the petition filed 07/28/2010 to correct the inventorship under 37 CFR 1.324.

The petition is Granted.

The file is being forwarded to Certificate of Correction branch for issuance of a certificate naming only the actual inventors.

/MIRANDA LE/
Supervisory Patent Examiner.Art Unit 3735

UNITED STATES PATENT AND TRADEMARK OFFICE

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McCarter & English, LLP Boston
265 Franklin Street
Boston, MA 02110

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of :
Clive R. Wood et al. :
Application No. 11/049,536 :
Filed: February 2, 2005 :
Attorney Docket No. 117811-00104 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the "Application for Patent Term Adjustment Including Request for Reconsideration Under 37 C.F.R. § 1.703(B)" filed June 28, 2010. Applicants request the initial determination of patent term adjustment be corrected from zero (0) days to two hundred thirty (230) days.

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

As will be discussed, Applicants have failed to demonstrate the correct initial patent term adjustment determination is not 0 days. However, Applicants have demonstrated the Office made errors when calculating the total period of delay under 37 C.F.R. § 1.704 ("Applicant Delay"). The Office has updated the PALM screen to reflect the total period of Applicant Delay as of the date the Office issued the Notice of Allowance is 535 days. A copy of the updated PALM screen is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on April 2, 2010, advising Applicants of a patent term adjustment to date of 0 days, which consisted of a total period of delay under 37 C.F.R. § 1.702(a) ("A Delay") of 426 days and a total period of Applicant Delay of 492 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on June 28, 2010.

Applicants assert the patent term adjustment should be 230 days, which is the sum of 426 days of A Delay and 515 days of delay under 37 C.F.R. § 1.702(b) ("B Delay") reduced by 33 days of overlap between A Delay and B Delay and reduced by 678 days of Applicant Delay.

Issue 1

Applicants assert the patent term adjustment should include a 515-day increase for B Delay.

To the extent Applicants request an increase in patent term adjustment for B Delay, the request is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. *See* 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 C.F.R. § 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature.

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

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

Issue 2

The Office mailed a Notice to File Missing Parts of Nonprovisional Application on April 13, 2005, requiring the submission of several items. For example, the notice stated, "Applicant must provide an initial computer readable form (CFR) copy of the 'Sequence Listing.'"

A reply to the April 13, 2005 notice was filed June 6, 2005.

---

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

On August 9, 2005, the Office mailed a new notice setting forth a new time period for reply. The notice stated,

> A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).... Applicant must provide an initial computer readable form (CFR) copy of the "Sequence Listing."

A reply to the August 9, 2005 notice was filed October 12, 2005.

The Office entered an 86-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) based on a belief the reply to the August 9, 2005 notice was filed three months and 86 days after the Office mailed the April 13, 2005 notice.

Applicants assert the prior facts warrant a 123-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7).

The Office has reviewed the record and agrees a reduction in patent term adjustment should have been entered under 37 C.F.R. § 1.704(c)(7), not 37 C.F.R. § 1.704(b). However, the Office does not agree a 123-day reduction in patent term adjustment should have been entered.

Applicants' assertion the proper period of reduction is 123 days is based on an assumption the reply to the August 9, 2005 notice was filed October 7, 2005. Applicants' belief may be based on the fact the Office's PAIR information for the application incorrectly states a reply to the August 9, 2005 notice was filed October 7, 2005. However, a review of the file record indicates the reply to the August 9, 2005 notice was not filed until October 12, 2005. The number of days beginning June 7, 2005, the day after the date a reply with an omission was filed, and ending on October 12, 2005, the date a reply correcting the omission was filed, is 128 days. Therefore, the prior facts warrant a 128-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7).

Issue 3

Applicants filed a reply to a non-final Office action on January 25, 2008.

The Office issued a Notice of Non-Compliant Amendment on April 4, 2008.

Applicants filed a response to the April 4, 2008 notice on May 1, 2008.

The Office issued a second Notice of Non-Compliant Amendment on August 29, 2008.

Applicants filed a response to the August 29, 2008 notice on October 29, 2008.

The Office entered a 181-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7) based on the facts above.

Applicants assert the facts above warrant entry of a 278-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7).

The number of days beginning January 26, 2008, the day after the date a reply with an omission was filed, and ending October 29, 2008, the date a reply correcting the omission was filed, is 278 days. Therefore, the Office agrees the Office should have a 278-day, not a 181-day, reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(7).

Issue 4

The Office issued a non-final Office action on April 30, 2007.

A reply to the April 30, 2007 Office action was filed June 1, 2007.

The Office issued a non-final Office action on July 27, 2007.

A supplemental information disclosure statement ("IDS") was filed November 3, 2007. The record fails to indicate the examiner expressly requested Applicants file the supplemental IDS and the supplemental IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d).

A second supplemental IDS was filed November 29, 2007. The record fails to indicate the examiner expressly requested Applicants file the second supplemental IDS and the second supplemental IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d).

A reply to the July 27, 2007 Office action was filed January 25, 2008.

The petition states the filing of the November 3, 2007 IDS and the November 29, 2007 IDS warrant entry of a 181-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

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

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

Each IDS was filed on a date after June 1, 2007, the date Applicants filed a reply to the April 30, 2007 Office action. In other words, each IDS is technically a paper filed after the date a reply to an Office action has already been filed. However, in view of the fact an Office action was mailed on July 27, 2007, and each IDS was filed prior to the date Applicants filed a reply to the July 27, 2007 Office action, each IDS is not an "other paper" submitted "after a reply has been filed" within the meaning of the language as used in 37 C.F.R. § 1.704(c)(8). Therefore, neither IDS warrants entry of a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

Issue 5

The Office issued a non-final Office action on August 17, 2009.

Applicants filed a reply on December 17, 2009.

Applicants filed a supplemental reply on March 23, 2010. The first page of the amendment filed March 23, 2010, states,

> This communication is responsive to an express request from Examiner Stoica during a telephonic interview on March 16, 2010 to submit a Terminal Disclaimer in order to place the application in condition for allowance.

The file does not include an interview summary form prepared by the examiner addressing the March 16, 2010 interview.

A Notice of Allowance and an Examiner's Amendment were issued April 2, 2010. Neither the Notice of Allowance nor the accompanying Examiner's Amendment includes any language inconsistent with a conclusion the March 23, 2010 supplemental reply was expressly requested by the examiner.

The Office entered a 96-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) as a result of Applicants filing a supplemental reply on March 23, 2010, 96 days after Applicants filed a prior reply on December 17, 2009.

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

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

Applicants assert the 96-day reduction in patent term adjustment is improper because the examiner expressly requested the supplemental reply.

The evidence of record in this case is sufficient to establish the examiner expressly requested the supplemental reply. Therefore, entry of the 96-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) was improper.

Conclusion

The request for an increase in patent term adjustment for B Delay is premature.

Events that took place during the time period from April 13, 2005, to October 12, 2005, warrant a 128-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7) instead of an 86-day reduction in paten t term adjustment under 37 C.F.R. § 1.704(b)

Events that took place during the time period from January 25, 2008, to October 29, 2008, warrant a 278-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7) instead of a 181-day reduction in paten t term adjustment under 37 C.F.R. § 1.704(c)(7).

A reduction for Application Delay is not warranted as result of Applicants filing an IDS on November 3, 2007, or as a result of Applicants filing an IDS on November 29, 2007.

The Office's entry of a 96-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(8) as a result of a supplemental reply filed March 23, 2010, was improper.

The total period of Applicant Delay is 535 days, which consists of:

1. The previously discussed 128-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(7),
2. The previously discussed 278-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(7),
3. An undisputed 90-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(b),
4. An undisputed 9-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(c)(8), and
5. An undisputed 30-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(b).

The Office has corrected Office records to indicate the total period of Applicant Delay is 535 days instead of 492 days.

The total period of A Delay (426 days) is less than the total period of Applicant Delay (535 days). The patent term adjustment received by a patent cannot be less than zero days and the Office will not set forth a negative balance of patent term adjustment when mailing a Determination of Patent Term Adjustment under 35 U.S.C. 154(b). Therefore, the initial patent term adjustment determination mailed with the Notice of Allowance was correct and remains zero days.

The required $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-4876.

Applicants are reminded any Office delay under 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any Applicant Delay under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments

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

Application Number*: 11049536 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11049536

Application Filing Date 02/02/2005	Overlapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 426
A Delays 426	PTO Manual Adjustment -43
B Delays 0	Applicant Delay (APPL) 492
C Delays 0	Total PTA (days) 0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
111	12/12/2010		P028	Adjustment of PTA Calculation by PTO		43	0
98	04/02/2010		MN/=.	Mail Notice of Allowance			0
97	03/30/2010		IREV	Issue Revision Completed			0
96	03/29/2010		DVER	Document Verification			0
95	03/29/2010		N/=.	Notice of Allowance Data Verification Completed			0
94	03/29/2010		EX.A	Examiner's Amendment Communication			0
93	03/29/2010		CNTA	Notice of Allowability			0
89	03/26/2010		P574	Paralegal TD Accepted			0
88	03/23/2010	12/17/2009	DIST	Terminal Disclaimer Filed		96	86
87	01/24/2010		FWDX	Date Forwarded to Examiner			0
86	12/17/2009	11/17/2009	A...	Response after Non-Final Action		30	84
85	12/17/2009		XT/G	Request for Extension of Time - Granted			0
84	08/17/2009		MCTNF	Mail Non-Final Rejection			0
83	08/17/2009		CTNF	Non-Final Rejection			0
82	07/07/2009		FWDX	Date Forwarded to Examiner			0
80	07/07/2009		FWDX	Date Forwarded to Examiner			0
78	07/07/2009		A8N9	Disposal for a RCE / CPA / R129			0
81	07/02/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
79	07/02/2009		RCEX	Request for Continued Examination (RCE)			0
77	07/02/2009		BRCE	Workflow - Request for RCE - Begin			0
76	06/24/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
75	06/18/2009		CTAV	Advisory Action (PTOL-303)			0
74	06/15/2009		P574	Paralegal TD Accepted			0
69	06/08/2009		FWDX	Date Forwarded to Examiner			0
73	06/02/2009		DIST	Terminal Disclaimer Filed			0
72	06/02/2009		IDSC	Information Disclosure Statement considered			0
71	06/02/2009		M844	Information Disclosure Statement (IDS) Filed			0
70	06/02/2009		TDP	terminal disclaimer fee paid			0
68	06/02/2009		A.NE	Amendment after Final Rejection			0
67	06/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
66	04/14/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
65	04/10/2009		C.AD	Correspondence Address Change			0
64	04/02/2009	02/20/2009	MCTFR	Mail Final Rejection (PTOL - 326)	32		55
63	03/30/2009		CTFR	Final Rejection			0
56	03/10/2009		FWDX	Date Forwarded to Examiner			0
59	11/07/2008		IDSC	Information Disclosure Statement considered			0
53	11/07/2008		RCAP	Reference capture on IDS			0
52	11/07/2008	10/29/2008	M844	Information Disclosure Statement (IDS) Filed		9	55
51	11/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
55	10/29/2008	05/01/2008	A...	Response after Non-Final Action		181	46
54	10/29/2008		XT/G	Request for Extension of Time - Granted			0
50	08/29/2008		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
49	08/19/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
48	08/15/2008		C.AD	Correspondence Address Change			0
47	06/21/2008		FWDX	Date Forwarded to Examiner			0
46.1	05/01/2008		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
46	05/01/2008		A...	Response after Non-Final Action			0
45	04/30/2008		EML_NTR	Email Notification			0
44	04/30/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
43	04/25/2008		C.AD	Correspondence Address Change			0
42	04/04/2008		MCTMS	Mail Miscellaneous Communication to Applicant			0
41	04/02/2008		CTMS	Miscellaneous Action with SSP			0
38	02/12/2008		FWDX	Date Forwarded to Examiner			0
37	01/25/2008	10/27/2007	A...	Response after Non-Final Action		20	29
36	01/25/2008		XT/G	Request for Extension of Time - Granted			0
58	11/29/2007		IDSC	Information Disclosure Statement considered			0
40	11/29/2007		M844	Information Disclosure Statement (IDS) Filed			0
39	11/29/2007		M844	Information Disclosure Statement (IDS) Filed			0
34	11/29/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
57	11/09/2007		IDSC	Information Disclosure Statement considered			0
33	11/09/2007		RCAP	Reference capture on IDS			0
32	11/09/2007		M844	Information Disclosure Statement (IDS) Filed			0
30	11/09/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
29	07/27/2007		MCTNF	Mail Non-Final Rejection			0
28	07/23/2007		CTNF	Non-Final Rejection			0
26	06/04/2007		FWDX	Date Forwarded to Examiner			0
25	06/01/2007		ELC.	Response to Election / Restriction Filed			0
24	06/01/2007		XT/G	Request for Extension of Time - Granted			0
23	04/30/2007	04/02/2006	MCTRS	Mail Restriction Requirement	393		-1
22	04/28/2007		CTRS	Requirement for Restriction / Election			0
21	11/28/2006		DOCK	Case Docketed to Examiner in GAU			0
27	09/25/2006		IDSC	Information Disclosure Statement considered			0
20	09/25/2006		RCAP	Reference capture on IDS			0
19.7	09/25/2006		M844	Information Disclosure Statement (IDS) Filed			0
19	09/25/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
18	11/21/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	11/21/2005		DOCK	Case Docketed to Examiner in GAU			0
14	10/26/2005		OIPE	Application Dispatched from OIPE			0
13	10/26/2005		COMP	Application Is Now Complete			0
10	10/19/2005		CRFE	CRF Is Good Technically / Entered into Database			0
17	10/12/2005		A.PE	Preliminary Amendment			0
12	10/07/2005	07/13/2005	ADDFLFEE	Additional Application Filing Fees		85	5
11	10/07/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
9	08/09/2005		SQPR	SEQUENCE ERRORS			0
16	06/06/2005		A.PE	Preliminary Amendment			0
8	06/06/2005		ADDFLFEE	Additional Application Filing Fees			0
7	06/06/2005		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
6	06/06/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	04/13/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	04/05/2005		L128	Cleared by LAR (LARS)			0
3	02/25/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	02/16/2005		SCAN	IFW Scan & PACR Auto Security Review			0
1	02/02/2005		IEXX	Initial Exam Team nn			0

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In re Patent No.	7124597	:
Issue Date:	October 24,2006	
Application No.	11049612	:DECISION GRANTING PETITION
Filed:	February 2,2005	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	14865.2US01	:

This is a decision on the electronic petition, filed March 15,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 15,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,124,597	2006-10-24	11/049,612	2005-02-02	14865.2US01

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	/Julie R. Daulton/	Date (YYYY-MM-DD)	2011-03-15
Name	Julie R. Daulton	Registration Number	36414

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Paper No.

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

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Guruswamy et al. :
Application No. 11/049,620 :
Filed: 02/02/2005 :
Atty Docket No. :
1014-105US01/JNP-0411 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH," filed on March 5, 2010. Applicants request reconsideration of the patent term adjustment in view of the decision of Wyeth v. Kappos, (No. 2009-1120, Fed. Cir., Jan. 7, 2010).

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

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

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

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

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

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

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

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) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 7,123,048	: DECISION GRANTING PETITION
Issue Date: October 17, 2006	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 11/049,663	: REQUEST FOR CERTIFICATE OF
Filed: February 4, 2005	: CORRECTION
Attorney Docket No. 500.33011CC13	:

This is a decision on the petition, filed September 2, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to correct a claim for priority under 35 U.S.C. § 120 by way of a certificate of correction.

The petition is **granted**.

The instant application was filed February 4, 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 applications. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

The Office is in receipt of the $1,410 surcharge as well as the $100 certificate of correction fee.

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

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

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/049,663	02/04/2005	2819	7550	500.33011CC13	133	6

CONFIRMATION NO. 8919

CORRECTED FILING RECEIPT

OC000000045807505

20457
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Date Mailed: 02/02/2011

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

Applicant(s)

Toshitsuqu Takekuma, Ebina-shi, JAPAN;
Ryoichi Kurihara, Hadano-shi, JAPAN;
Akira Yamagiwa, Hadano-shi, JAPAN;

Power of Attorney:

Donald Antonelli--20296
Melvin Kraus--22466
Donald Stout--26422
Gregory Montone--28141
William Solomon--28565
Ronald Shore--28577
Alan Schiavelli--32087

Domestic Priority data as claimed by applicant

This application is a CON of 10/989,279 11/17/2004 PAT 7,015,717
which is a CON of 10/241,477 09/12/2002 PAT 6,873,179
which is a CON of 10/194,310 07/15/2002 PAT 7,372,292
which is a CON of 09/891,322 06/27/2001 PAT 6,420,900
which is a CON of 09/716,251 11/21/2000 PAT 6,441,639
which is a CON of 09/084,017 05/26/1998 PAT 6,172,517
which is a CON of 08/773,753 12/24/1996 PAT 5,818,253
which is a CON of 08/596,724 02/05/1996 PAT 5,627,481
which is a CON of 08/269,352 06/30/1994 PAT 5,548,226

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
JAPAN 05-334631 12/28/1993
JAPAN 5-334631 12/28/1993

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/049,663**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

SIGNAL TRANSMITTING DEVICE SUITED TO FAST SIGNAL TRANSMISSION

Preliminary Class

326

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of	:
Komachiya, et al.	: DECISION ON PETITION
Application No. 11/049,756	:
Filed: February 4, 2005	:
Atty. Dkt. No: 500.44673X00	:

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 6, 2010.

The application was held abandoned April 26, 2009 for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (Notice) mailed March 25, 2009. The Notice set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed December 1, 2009. A petition under 37 CFR 1.181 was filed January 26, 2010 and dismissed June 7, 2010.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See, MPEP 711.03(c).

The instant petition and supporting documents have been carefully review but are found in compliance with procedures to establish non-receipt of an Office communication set forth at MPEP 711.03(c).

In view thereof, the instant petition is hereby GRANTED. The holding of abandonment is WITHDRAWN and the Notice of Abandonment is VACATED.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

This application is being forwarded to Group Art Unit 1795 for re-mailing of the Office communication. The time period for reply will be set in the newly mailed Office communication.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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): 11/049,756	Patent Number (if applicable):
First Named Inventor: Masahiro KOMACHIYA	Title of Invention: FUEL-CELL POWER SYSTEM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Leonid D. Thenor/	Date May 9, 2011
Name (Print/Typed) Leonid D. Thenor	Practitioner Registration Number 39,397

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

☐ *Total of 1 forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAY 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Masahiro KOMACHIYA et al.	:	
Application No. 11/049,756	:	DECISION ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No.: 500.44673X00	:	

This is a decision on the request filed May 9, 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 7, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 1727 for re-mailing of the Office action of December 7, 2010. The period for reply will run from the mailing date of the Office action.

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

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

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Dieter Jurzitza	:	
Application No. 11/049,777	:	DECISION ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. HI05001USU (P01044US)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 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, November 17, 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 18, 2010. A Notice of Abandonment was mailed June 17, 2010.

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

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

This matter is being referred to Technology Center AU 2613 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/16/07

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7109333

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:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
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 (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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 – Correction is for typographical errors only.

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1624
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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MILLER, MATTHIAS & HULL
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO IL 60606

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Bruce Dawson, et al.	:	
Application No. 11/050,146	:	DECISION ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 60000/PA-0012628-US	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 7, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 4, 2010. Accordingly, the date of abandonment of this application is September 8, 2010. The Notice of Abandonment was mailed September 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 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.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11050284
Filing Date	03-Feb-2005
First Named Inventor	Sameh Mesallum
Art Unit	3768
Examiner Name	SAUREL SELKIN
Attorney Docket Number	102078-0002C2
Title	METHOD AND APPARATUS FOR PERFORMING TRANSGASTRIC PROCEDURES

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	/Michael L. Mathaisel/
Name	Michael L. Mathaisel
Registration Number	64251

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 28,2011

In re Application of :

Sameh Mesallum

Application No : 11050284

Filed : 03-Feb-2005

Attorney Docket No : 102078-0002C2

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed October 28,2011 , 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
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In re Patent No. 7246921
Issue Date: July 24,2007
Application No. 11050542
Filed: February 3,2005
Attorney Docket No. 033334-0108

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

This is a decision on the electronic petition, filed January 24,2012 ,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 24,2012 . 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
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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)
7246921	2007-07-24	11050542	2005-02-03	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Benjamin A. Jacobson/	Date (YYYY-MM-DD)	2012-01-24
Name	Benjamin A. Jacobson		

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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MAILED

SEP 21 2010

OFFICE OF PETITIONS

HAHN & VOIGHT-MEDTRONIC, INC. PATENT APPLICATIONS
1012 14TH STREET, NW SUITE 620
WASHINGTON DC 20005

In re Patent No. 7,622,303	: DECISION ON REQUEST
Issued: November 24, 2009	: FOR RECONSIDERATION
Application No. 11/050,611	: OF PATENT TERM ADJUSTMENT
Filed: February 3, 2005	: AND
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
P11348.00-MED-10002US	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on May 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting correction of the patent term adjustment indicated on the above-identified patent.

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

The term of the above-identified patent is extended or adjusted by one thousand two hundred seventy-one (1271) days.

On January 11, 2010, patentee submitted a petition under 37 CFR 1.705(d) and fee. On March 1, 2010 patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On March 9, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 1271 days. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 1786 days.

The Office notes that the decision of April 21, 2010, was issued in error as it accorded patentee 515 more days of patent term adjustment than were warranted. Accordingly, the decision of April 21, 2010, is withdrawn. 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 1271 days. The 515 additional days of adjustment will be removed.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred seventy-one (1271)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,622,303 B2

DATED : November 24, 2009

INVENTOR(S) : Orhan Soykan

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 (1786) days

Delete the phrase "by 1786 days" and insert – by 1271 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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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/050,642	:	TO WITHDRAW
Filed: February 3, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0078US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

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

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

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

Currently, there is an outstanding Office action mailed October 20, 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: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110712

DATE : July 12, 2011

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 7190201

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: /Lincoln Donovan/ **Art Unit** 2816

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

ANTHONY ASQUITH
#28 - 461 COLUMBIA STREET WEST
WATERLOO N2T 2P5 CA CANADA

MAILED
NOV 16 2010
OFFICE OF PETITIONS

In re Application of :
Brett C. Davidson :
Application No. 11/050,671 : NOTICE
Patent No. 7,644,759 :
Filed: February 07, 2005 :
Attorney Docket No. **859-05US**

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

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

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

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment*. An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Inquiries related to this communication should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-12-10

TO SPE OF : ART UNIT 2434

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/050779 Patent No.: 7761712

CofC mailroom date: 01-06-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

Angela Green

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: Appendix was part of originally filed specification

/Gilberto Barron Jr./ — **SPE**

2432 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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www.uspto.gov

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAILED
AUG 23 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON APPLICATION
Ouyang et al.	:	FOR PATENT TERM
Patent Number: 7,649,820	:	ADJUSTMENT RECONSIDERATION
Issue Date: 01/19/2010	:	and
Application No. 11/050815	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 01/27/2005	:	CERTIFICATE OF CORRECTION
Attorney Docket Number:	:	
320528623US	:	

This is a decision on the petition filed on filed May 20, 2010 under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty-two (752) 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 fifty-two (752) days is **GRANTED to the extent indicated herein.**

A review of Office records confirms that the application was abandoned on April 23, 2008; that a petition to revive the application was filed on January 2, 2009, and that a Decision granting the petition to revive the application was mailed on February 27, 2009. Pursuant to 37 CFR 1.704(c)(3), the period of delay begins on the date of abandonment, April 23, 2009, and ends on the date of mailing of the decision reviving the application, February 27, 2009, or 311 days.

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under

35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred fifty-one (751) days.**

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

/DW/

Derek Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,649,820 B2

DATED : January 19, 2010

INVENTOR(S) : Ouyang 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 1062 days.

Delete the phrase "by 1062 days" and insert – by 751 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York NY 10017-5621

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Patent of Touitou et al.:
Patent No. 7,653,938 :
Issue Date: January 26, 2010 : DECISION ON REQUEST
Application No. 11/050,904 : FOR RECONSIDERATION OF
Filed: February 3, 2005 : PATENT TERM ADJUSTMENT
Docket No. 206,860 :

This correspondence is mailed in response to a Request for Recalculation of Patent Term Adjustment in View of Wyeth, filed July 12, 2010. The request was timely filed within one month of the mailing of a Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed June 18, 2010.

The request is **DISMISSED**.

Patentees are given **one (1) month or thirty (30) days**, whichever is longer, to respond to this decision. No extensions of time will be granted under § 1.136(a).

The Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed June 18, 2010, states that if patentees desire to file a request for reconsideration of the patent term adjustment set for the in the decision, that patentees must file a petition and include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e).

Within one month, on July 12, 2010, Thomas J. Frame filed a second Request for Recalculation of Patent Term Adjustment in View of Wyeth. It is noted that Mr. Frame is not the attorney who filed the first Request for Recalculation of Patent Term Adjustment in View of Wyeth on June 14, 2010.

It is unclear whether the filing of the present request was an error on the part of patentees' counsel, or whether patentees

wish to request reconsideration of the June 18, 2010 decision. Patentees have failed to set forth a detailed explanation as to their calculation of the patent term adjustment and have failed to submit the $200.00 fee under 37 CFR 1.18(e), both of which were required by the June 18, 2010 Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction if reconsideration was desired.

Accordingly, the request is dismissed. Please submit clarification of patentees' desired objective(s) in filing the present request.

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

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

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

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

Correspondence may also be submitted electronically via EFS-Web.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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)
7,259,051	2007-08-21	11/050,963	2005-02-07	LKSP0076USA

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2011-09-23
Name	Winston Hsu	Registration Number	41526

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

In re Patent No. 7259051
Issue Date: August 21,2007
Application No. 11050963
Filed: February 7,2005
Attorney Docket No. 0941-1137PUS1

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

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of	:	
Gerald Von Hoffmann, et al.	:	
Application No. 11/050,975	:	DECISION GRANTING PETITION
Filed: February 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TRIAGE.7CP1C1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 July 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Rabinder N. Narula appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Narula desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to 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 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.

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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.*

This application is being referred to Technology Center AU 3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOS ALAMOS NATIONAL SECURITY, LLC
LOS ALAMOS NATIONAL LABORATORY
PPO. BOX 1663, LC/IP, MS A187
LOS ALAMOS NM 87545

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Yuntian T. Zhu	:	
Application No. 11/051,007	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. S-104,824	:	

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

The petition is **GRANTED**.

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 June 22, 2009, a three (3) month extension 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 November 23, 2009. See MPEP 1215.04.

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

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

This application is being referred to Technology Center AU 1793 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Cecil Ray Brooks et al :
Application No. 11/051,162 :
Filed: February 4, 2005 :
Attorney Docket No. MSFT-4560

ON PETITION

This is a decision on the petition, filed September 20, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 12, 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 3685 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of
Monica Maria Adelheid Sanders
Application No. 11/051,278
Filed: February 4, 2005
Attorney Docket No. 70372USNP

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

The request cannot be approved because practitioners did not provide the correct customer number that was used in the appointment. Practitioner must withdraw using the same customer number used in the appointment for representation.

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

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

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

cc: SYNGENTA BIOTECHNOLOGY, INC.
PO BOX 12257
RESEARCH TRIANGLE PARK, NC 27709-2257

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/15/11

TO SPE OF : ART UNIT 2421

SUBJECT : Request for Certificate of Correction for Appl. No.: 11051405 Patent No.: 8010986

CofC mailroom date: 12/06/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Please check Claims 23 and 24
Should the changes to the claims be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

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

Comments: _____

Kristine Kincaid — 2421

SPE — **Art Unit**

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 08/02/2010

Applicant	: Siamak Naghian	: DECISION ON REQUEST FOR
Patent Number	: 7649872	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,428	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **980** 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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OFFICE OF PETITIONS

Nelson, Mullin, Riley & Scarborough LLP
Floor 30, Suite 3000
One Post Office Square
Boston, MA 02109

In re Patent No. 7,625,559	:
Ambrosino et al.	: DECISION UPON REMAND AND
Issue Date: December 1, 2009	: RECONSIDERATION OF
Application No. 11/051,453	: PATENT TERM ADJUSTMENT
Filed: February 4, 2005	:
Attorney Docket No. MJI-001	:
Title: ANTIBODIES AGAINST	:
CLOSTRIDIUM DIFFICILE TOXINS	:
AND USES THEREOF	

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

PROCEDURAL HISTORY

1. On May 1, 2009, the USPTO issued the notice of allowance advising patentee that the Patent Term Adjustment (hereinafter referred to as PTA) was 434 days.
2. On July 31, 2009, patentee timely filed an APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b).
3. On October 27, 2009, the USPTO dismissed patentee's application for PTA filed on July 31, 2009 as premature because patentee was requesting PTA for delays under 35 USC 154(b)(1)(B), however, such delays are not calculated by the USPTO until the issue date is established and the Office mails the issue notification letter.
4. On November 11, 2009, the Office mailed the issue notification letter informing the patentee that the amount

the USPTO until the issue date is established and the Office mails the issue notification letter.

4. On November 11, 2009, the Office mailed the issue notification letter informing the patentee that the amount of PTA which included the determination of PTA under 35 USC 154(b)(1)(B) was 623 days. The patent issued on December 1, 2009.
5. On January 1, 2010, patentee timely filed an APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b).[i]
6. On May 28, 2010, patentee filed a civil complaint in District Court in the District Of Columbia pursuant to 35 USC 154(b)(4)(A) requesting that the Court award patentee 1276 days of PTA.
7. Subsequent to the filing of the complaint, the District Court remanded the action to the USPTO to recalculate the amount of PTA.

Patentee's Arguments

"A" delay

Patentee alleges that the Office erred in the awarding of 465 days of delay under 35 USC 154 (b)(1)(A). Patentee alleges that the proper amount of PTA under this statutory provision is 689 days.

Patentee asserts that 688 days is based upon the Office's vacating the Office action mailed July 13, 2007 and mailing an Office action on February 21, 2008. See 35 USC 154(b)(1)(A)(i). Accordingly, patentee asserts that "A" delay accrued from April 5, 2006 to/including February 21, 2008.

Patentee does not dispute the 1 additional day of "A" delay calculated by the USPTO that accrued under 35 USC 154(b)(1)(A)(iv).

"B" delay

Patentee asserts that the amount of "B" delay under 35 USC 154(b)(1)(B) is 666 days.

Overlap (35 USC 154(b)2)(A)

Patentee alleges that the amount of overlap as outlined by the decision in Wyeth v. Kappos, 591 F. 3d 1366(Fed. Cir. 2010) is 18 days. Patentee asserts that amount of overlapping periods between the "A" delay and the "B" delay would be 18 days based upon the period from 2/5/2008 thru 2/21/2008 and the additional day of December 1, 2009.

Applicant Delay

Patentee asserts that the correct amount of applicant delay under 37 CFR 1.704)(b) and (c) is 61 days. Patentee advises the Office that the Office failed to assess a 61-day reduction 1.704(b) for the delayed submission to Response to File Missing Parts on August 25, 2005. Patentees further assert that the 43-day reduction under 37 CFR 1.704(c)(8) is errant in that the examiner expressly requested submission of the paper that triggered the underlying decision.

Patentee Calculation

Patentee alleges that the correct amount of PTA is 1276 days. Patentee calculates as follows: 689 + 666+ 0 - 18 - 61= 1276 days. Accordingly, Patentee request that the PTA be adjusted from 623 to 1276 days.

Decision

Patentee's request for PTA adjustment is **GRANTED to the extent herein indicated**. The Office finds that the amount of PTA is 1070 days.

The Office finds that the amount of "A" delay is 478 days. Patentee's arguments have been considered but are not deemed persuasive. The Office finds that the "A" delay pursuant to 35 USC 154(b)(1)(A)(i) is 465 days. The Office finds that the Office did not mail a notification under 35 USC 132 until July 13, 2007. In addition, the Office finds that it did not respond to patentee's reply on October 9, 2007 until February 21, 2008, a twelve day Office delay under 35 USC 154(B)(1)(A)(ii). Further, the Office finds that the amount of delay under 35 USC 154(b)(1)(A)(iv) is one additional day due to the patent not issuing within

four months of the payment of the issue fee and all outstanding requirements being satisfied.

Patentee asserts that the delay of 465 days under 35 USC 154(b)(1)(A)(i) is inaccurate because the examiner vacated such Office action and accordingly the date met under 35 USC 154(b)(1)(A)(i) would be February 21, 2008.
A review of the record does not reflect any showing in the record where the examiner expressly asserts that the Office action of July 13, 2007 was vacated by the examiner. The record does reflect that after the mailing of the restriction requirement, the patentee filed a reply to the restriction requirement on October 9, 2007. Subsequent to the response to restriction requirement, patentee, examiner, and examiner's supervisor Bruce Campbell appear to have had some discussions concerning the restriction requirement as evidenced by the notes that were contemporaneous with the submission of the supplemental response on November 21, 2007. In such supplemental response, the patentee cancelled claims 1-80 and added new claims 81-131. On February 21, 2008, the examiner mailed a restriction requirement addressing the claims amended in the November 21, 2007 supplemental response. The examiner did not mention any vacating of the July 13, 2007 restriction requirement. The clear implication is that the Examiner mailed a new restriction requirement to address applicant's new claims, not because the Examiner was vacating the first restriction requirement.

As for the amount of "B" delay under 35 USC 154(b)(1)(B), the Office and applicants are in agreement that the correct amount of "B" delay is 666 days.

As for the amount of overlap, the Office finds that the amount of overlap is 13 days. As per Wyeth v. Kappos, the Office finds only overlapping days between "A" and "B" delay to be days that occur on the same calendar. In this particular application, the thirteen days that are considered overlapping are the period from February 10, 2008 to and including February 21, 2008 and the one day of December 1, 2009. Patentee's assertion of more than the thirteen days of overlapping periods between "A" delay and "B" delay is based upon the vacated period accruing additional "A' delay. Since the Office does not find that

patentee accrued additional "A" delay for the alleged "vacated" restriction requirement, the Office does not assess additional days of overlap against patentee's PTA determination.

As for the amount of applicant delay based upon 35 USC 154(B)(2)(C) as implemented in 37 CFR 1.704(b) and (c), the Office finds that patentee's calculation is accurate in determining 61 days of applicant delay. The Office finds agreement with patentee that the 43 day applicant delay assessed in the calculation should be removed. Pursuant to 37 CFR 1.704(c)(8), patentee is not considered to fail in reasonable efforts to prosecute the application if the examiner expressly requests that the patentee submit the amendment or supplemental paper.

In the present scenario, the record reflects that the submission of the amendment on November 21, 2007 also included a statement filed with the amendment relaying the agreement between the Office and the patentee that patentee at the bequest of the examiner would submit the supplemental amendment. Accordingly, the Office finds that the record reflects that the amendment was expressly suggested by the examiner and therefore should not have been considered an application delay under 37 CFR 1.704(c)(8). In addition, the Office finds that the patentee's assertion as to an undisclosed applicant delay under 37 CFR 1.704(b) is also accurate in that the Office failed to assess an applicant delay based upon the patentee's failure to respond to the Notice to File Missing Parts mailed by the Office on March 25, 2008 until August 25, 2008, 61 days beyond three months of the mailing of the Office notice.[1]

Accordingly, the Office finds that the proper amount of PTA is ONE THOUSAND and SEVENTY (1070) days. The formula is the following: "A" delay + "B" delay + "C" delay - overlapping days - applicant delay. In this instance, the calculation is following: 478 + 666 + 0 - 13 - 61= 1070.

[1] It should be noted that the Notice to File Missing Parts sets a two month response period. However, PTA rules allow a patentee to respond three months after the mailing of the notice without any reduction to the earned PTA.

Conclusion

The Office finds that the amount of PTA is 1070.

/Kery A. Fries/

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

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TWO EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111-3834

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JUL 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Malan de Villiers, et al.	:	
Application No. 11/051,513	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. 022031-001500US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2011.

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

A review of the file record indicates that the power of attorney to Kilpatrick Townsend & Stockton LLP has been revoked by the assignee of the patent application on June 8, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WILSON, SONSINI GOODRICH & ROSATI**
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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: M4065.0856/P856-A	Patent Number: 7,667,752
Filing Date (or 371(b) or (f) Date): 02-07-2005	Issue Date: 02-23-2010
First Named Inventor: Daniel Van Blerkom	
Title: SEMICONDUCTOR IMAGING SENSOR ARRAY DEVICES WITH DUAL-PORT DIGITAL READOUT	

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

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

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

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

Signature	Date August 20, 2010
Name (Print/Typed) Thomas J. D'Amico	Registration Number 28,371

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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Alexandria, Virginia 22313-1450
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Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, DC 20006

Mail Date: 09/14/2010

Applicant	: Daniel Van Blerkom	: DECISION ON REQUEST FOR
Patent Number	: 7667752	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1120** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/051,572	02/04/2005	Ballard Claude Bare	200500096-1	5065

22879 7590 05/24/2011
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
RUTKOWSKI, JEFFREY M

ART UNIT	PAPER NUMBER
2473	

NOTIFICATION DATE	DELIVERY MODE
05/24/2011	ELECTRONIC

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

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

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

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte BALLARD CLAUDE BARE and
SHAUN KAZUO WAKUMOTO

Application 11/051,572
Technology Center 2400

Before MERRELL C. CASHION, JR., *Case Management Administrator.*

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b)," filed April 18, 2011 ("Petition").

See 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

"The Chief Administrative Patent Judge may delegate authority to decide petitions." 37 C.F.R. § 41.3(a).

FINDINGS

1. On June 28, 2010, Appellants filed an Appeal Brief.

2. On March 11, 2011, the Primary Examiner issued a Notice of Abandonment stating the reasons in support of the dismissal.

4. On April 18, 2011, Appellants filed the present Petition and an Appeal Brief.

5. 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.

6. The Petition to Revive was accompanied by:

(a) an Appeal Brief;

(b) the Petition fee; and

(c) A statement that "The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant 37 C.F.R. § 1.137(b) was unintentional."

7. There are no facts known by the Office that would cause the Office to question the statements presented in the Petition.

8. Since the application was filed after June 8, 1995, on February 4, 2005, no terminal disclaimer is required.

9. A review of the accompanying Appeal Brief filed on April 18, 2011 indicates that it is compliance with 37 C.F.R. § 41.37.

DISCUSSION

As indicated above, Appellants have complied with all of the requirements of a petition under 37 C.F.R. § 1.137(b) for revival of an unintentionally abandoned application.

Application 11/051,572

DECISION

In view of the foregoing, the Petition to Revive is GRANTED and the Appeal Brief of April 18, 2011, will be returned to the Examiner for preparation of an Examiner's Answer.

Merrell C. Cashion, Jr.
Case Management Administrator

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 01/12/2011

Applicant	: Naoya Sashida	: DECISION ON REQUEST FOR
Patent Number	: 7598557	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **340** 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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MAILED
MAY 25 2011
OFFICE OF PETITIONS

DOUGLAS KOZLAY
SUITE 304
9475 DEERECO ROAD
TIMONIUM MD 21093

In re Application of Douglas Kozlay Application No. 11/051,673 Filed: February 4, 2005 Title of Invention: AUTHENTICATING DEVICE WITH WIRELESS DIRECTIONAL RADIATION	: : : : :	ON PETITION

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

The petition is **GRANTED**.

The instant application became abandoned on May 17, 2005, for failure to timely reply to the Notice to File Missing Parts, mailed March 16, 2005, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 6, 2006.

The filing of the response to the Notice to File Missing Parts mailed March 16, 2005 is acknowledged.

All other requirements having been met, this matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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FEB 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,632,946	:
Issued: December 15, 2009	:
Application No. 11/051,909	: LETTER REGARDING
Filed: February 4, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No. 7291USO1	:

This letter is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed July 19, 2010. Pursuant to their duty of good faith and candor to the Office, applicants note that the patent term adjustment pursuant to 35 U.S.C. 154(b) should include an additional 43 days of Applicant delay. This matter is being treated under 37 C.F.R. § 1.705(d).

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

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

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

On December 15, 2009, the above-identified application matured into U.S. Patent No. 7,632,946 with a revised patent term adjustment of 55 days. On June 14, 2010, patentees filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On June 18, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 706 days.

On July 19, 2010, patentees submitted the instant application. Patentees acknowledge that pursuant to 37 CFR 1.704(b) the Office correctly accounted for the period in excess of 3 months taken by Applicant between April 22, 2005 (the mail date of the Notice of Missing Parts) and October 10, 2006 (the filing date of Applicant's complete response) in the amount of 445 days. However, Patentees argue that the response to the Notice

to File Missing Parts filed June 29, 2005 was incomplete and pursuant to 37 CFR 1.704(c)(7), the period of PTA should be reduced when Applicant submits a reply having an omission for the period beginning on the date after the date the reply having an omission was filed and ending on the date that the paper correcting the omission was filed. Thus, the period of PTA should have been reduced further.

In this case, patentee argues that the corrected reply was filed on October 10, 2006, or a period of 468 days. The 445-day delay discussed above, and this 468-day delay overlap, and the difference between them is 23 days. After accounting for these 23 days in comparison to the 706 days of PTA granted by the Office, patentee submits that the PTA for this application should instead be 683 days.

37 C.F.R. § 1.704(c) states:

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

> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;
>
> (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;

Applicant's argument has been considered but is not found to be persuasive.

It is undisputed that a reply was filed on June 29, 2005 and that the reply had an omission that was corrected on October 10, 2006, four hundred and sixty-eight (468) days after the filing of the initial response, however, as the patent term adjustment was already reduced by 445 days for the period from July 22, 2005 to October 10, 2006 for the late filing of the response, the delay of 445 days is attributable to both facts

because the late response and the petition to revive also filed on October 10, 2006 with the corrected response, do not result in serial delay. The 445 day delay for late response is based on a delay from July 22, 2005, when the response was due (three months from the April 22, 2005 mail date of the Notice to File Missing Parts) to October 10, 2006, when the response was received. The delay under 37 CFR 1.704(3) is based on a delay when the application became abandoned, June 23, 2005 and the date the petition for revival was filed, October 10, 2006. Therefore, the petition delay already incorporates the delay for late response and corrected response after an omission. Consequently, only 445 days of Applicants delay from these two events should be included in the Applicants delay, resulting in a total Applicant delay of 625 days.

Therefore, patentees should have been assessed delay for the period from July 22, 2005 (the date the response was due) to October 10, 2006 (the date the omission was corrected), or 445 days.

Per the authorization accompanying the petition and pursuant to 37 CFR 1.18(e), the Office has charged petitioner's deposit account no. 50-1662 in the amount of $200.00 for the instant petition. 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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BARLOW, JOSEPHS & HOLMES, LTD.
101 DYER STREET
5TH FLOOR
PROVIDENCE RI 02903

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,256,805 :
Issue Date: 14 August, 2007 :
Application No. 11/051,917 : DECISION
Filed: 4 February, 2005 :
Attorney Docket No. A026 P01123-US

This is a decision on the petition filed on 28 January, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized**.

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

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the

underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to IFW Files Repository in due course.

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

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

---

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

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNISONE CORPORATION
SUITE 204
510 S. CONGRESS AVENUE
AUSTIN, TX 78704

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael T. Lucas	:	
Application No. 11/051,985	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 26512Y2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 22, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 23, 2009. A Notice of Abandonment was mailed July 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $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 3627 for further examination on the merits

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/052,000	02/04/2005	Kelly J. Bruland	50001/112:6	9804

67616 7590 08/13/2010
ELECTRO SCIENTIFIC INDUSTRIES/STOEL RIVES, LLP
900 SW FIFTH AVE.
SUITE 2600
PORTLAND, OR 97204-1268

EXAMINER
PERT, EVAN T

ART UNIT	PAPER NUMBER
2826	

MAIL DATE	DELIVERY MODE
08/13/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ELECTRO SCIENTIFIC INDUSTRIES/STOEL RIVES, LLP
900 SW FIFTH AVE.
SUITE 2600
PORTLAND OR 97204-1268

In re Application of:
BRULAND, KELLY J. et al
Serial No. 11/052,000
Filed: Feb. 4, 2005
Docket: 50001/112.6
Title: SEMICONDUCTOR STRUCTURE PROCESSING USING MULTIPLE LASER BEAM SPOTS SPACED ON-AXIS TO INCREASE SINGLE-BLOW THROUGHPUT

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the request filed July 29, 2010 under 37 CFR 1.181 requesting transfer the current application to an examiner in another Art Unit 2826 in the interest of consistency and efficiency in handling the application.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The transfer of the application will be made in due course. The current examiner is requested to cause such transfer as soon as possible.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 2826 for further consideration of the claim amendment filed on July 29, 2010 with the RCE . Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

Mail Date: 08/06/2010

Applicant	: Joshua T. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7655434	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/052,001	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **829** 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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DITTHAVONG MORI & STEINER, P.C.
918 PRINCE STREET
ALEXANDRIA, VA 22314

MAILED

FEB 24 2011

OFFICE OF PETITIONS

In re Application of :
Kazuhiko Taketa, et al. :
Application No.: 11/052,094 : ON PETITION
Filed: February 8, 2005 :
Attorney Docket No.: 01129-1049 :

This is a decision on the petition, filed February 23, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 16, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2624 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7558203

DATED: September 17, 2009

INVENTOR(S): Bob Scott

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

Examiner has considered both corrections filed on September 17, 2009.

/SEEMA RAO/
Supervisory Patent Examiner.Art Unit 2462

UNITED STATES PATENT AND TRADEMARK OFFICE

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

MAILED
FEB 16 2011
OFFICE OF PETITIONS

In re Application of :
Dennis McDevitt et al :
Application No. 11/052,557 : DECISION ON PETITION
Filed: February 7, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 22956-326 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed February 7, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

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

The matter is being referred to the Technology Center Art Unit 3773 for action on the merits commensurate with this decision.

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

GREGORY W. OSTERLOTH
HOLLAND & HART, LLP
P.O. BOX 8749
DENVER, CO 80201

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Zhou et al.	:	
Application No. 11/052,595	:	DECISION ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 10040870-1	:	

This is a decision on the petition, filed September 19, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Notice of Allowance and Fee(s) Due (Notice) mailed March 28, 2007, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on July 24, 2007.

Petitioner asserts that the Notice dated May 27, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Notice 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 Notice was not received; and

3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner' statement.

The petition lacks item (3) above. Petitioner did not submit a copy of the docket record(s) to show non-receipt of the Notice of Allowance and Fee(s) Due. Practitioner's records should include a copy of the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Notice, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Notice must be submitted as documentary proof of nonreceipt. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

See MPEP § 711.03(c) 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 address given on the petition differs from the current address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

By Mail: Mail Stop 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 Alicia Kelley at (571) 272-6059.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: REGAN L. TRUMPER
AGILENT TECHNOLOGIES
LEGAL DEPT
815 14TH ST SW
MSCDL432
LOVELAND, CO 80537

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY
DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,666,844	:
Buch-Rasmussen et al.	: DECISION ON REQUEST
Issue Date: 02/23/2010	: FOR RECONSIDERATION OF
Application No. 11/052645	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/07/2005	: and
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
5866.210-US	: CERTIFICAE OF CORRECTION

This is a decision on the petition filed on June 15, 2010, under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-two (1022) 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 twenty-two (1022) days is **GRANTED to the extent indicated herein**.

A review of Office records reveals that the Office errantly assessed a reduction of three (3) days in accordance with 37 CFR 1.704(c)(10) in connection with the filing of a "Request for Foreign Priority," on January 25, 2010. Office records confirm that Applicants did not file a "Request for Foreign Priority" on January 25, 2010. As such, the delay of three (3) days is in error and has been removed.

A review of Office records also reveals that the Office also errantly neglected to assess a reduction in accordance with 37 CFR 1.704(c)(8), in connection with the filing of a "Request for Reconsideration of Prior Art Searches Performed in Parent Applications" on July 24, 2008, after filing an Amendment in reply to a non-final Office action on June 27, 2008. Pursuant to 37 CFR 1.704(c)(8), the patent term is reduced by a period of 27 days.

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

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred ninety-five (995) days**.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,666,844 B2

DATED : **February 23, 2010**

INVENTOR(S) : Buch-Rasmussen 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 1019 days.

Delete the phrase "by 1019 days" and insert – by 995 days--

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OCT 19 2010
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Wei Xiong	:	
Application No. 11/052,991	:	DECISION ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 020291D1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 12, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2009. Accordingly, the date of abandonment of this application is May 13, 2009. The Notice of Abandonment was mailed June 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $300 and the publication fee of $1,510 (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Note: In order to have the RCE and Information Disclosure Statement filed July 9, 2010 and resubmitted on September 28, 2010 considered, a petition to withdraw an application from issue under 37 CFR 313(c)(2) must be filed with the Office of Petitions at your earliest convenience.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Publishing Division within ONE MONTH from the mail date of this decision.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 07 2011
OFFICE OF PETITIONS

Peter Steinkamp
2712 SE Woodward St.
Portland OR 97202

In re Patent No. 7,174,094	:	
Issue Date: February 6, 2007	:	
Application No. 11/052,993	:	ON PETITION
Filed: February 7, 2005	:	
Atty. Docket No. PS151/1015	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 17, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **GRANTED**.

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

The maintenance fee is hereby accepted and the above-identified application 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

for Anthony Knight
Director
Office of Petitions

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/053,065	BLOCK ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				287.2	435	283.1	287.1	288.6					
INTERNATIONAL CLASSIFICATION					422	68.1							
C	1	2	M	1/34	536	23.1							
C	1	2	M	3/00									
C	1	2	M	1/00									
G	0	1	N	15/06									
C	0	7	H	21/02									

(Assistant Examiner) (Date)	/Frank W Lu/ 10/13/2010	Total Claims Allowed: 19
(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	19	31		61		91		121		151		181
2	2		32		62		92		122		152		182
3	3		33		63		93		123		153		183
4	4		34		64		94		124		154		184
6	5		35		65		95		125		155		185
	~~6~~		36		66		96		126		156		186
	~~7~~		37		67		97		127		157		187
	~~8~~		38		68		98		128		158		188
	~~9~~		39		69		99		129		159		189
18	10		40		70		100		130		160		190
	~~11~~		41		71		101		131		161		191
7	12		42		72		102		132		162		192
8	13		43		73		103		133		163		193
9	14		44		74		104		134		164		194
10	15		45		75		105		135		165		195
11	16		46		76		106		136		166		196
	~~17~~		47		77		107		137		167		197
	~~18~~		48		78		108		138		168		198
12	19		49		79		109		139		169		199
13	20		50		80		110		140		170		200
	~~21~~		51		81		111		141		171		201
14	22		52		82		112		142		172		202
15	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
16	28		58		88		118		148		178		208
17	29		59		89		119		149		179		209
5	30		60		90		120		150		180		210

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LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 N, STETSON
CHICAGO, IL 60601-6731

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Paul A. MAGNIN, et *at.*	:	
Application No. 11/053,141	:	DECISION ON REQUEST FOR
Filed: February 8, 2005	:	REVOCATION OF POWER-
Attorney Docket No. **263790**	:	OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed July 19, 2010.

The request is **APPROVED**.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

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

cc: **HAYNES & BOONE, LLP**
2323 VICTORY AVENUE, SUITE 700
DALLAS, TX 75219

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES & BOONE, LLP
2323 VICOTRY AVENUE, SUITE 700
DALLAS, TX 75219

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Paul A. MAGNIN, et *al.* :
Application No. 11/053,141 : DECISION ON PETITION
Filed: February 8, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **263790** :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 1, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 2, 2010.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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 3768 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

Thurman K. Page
Petitions Examiner
Office of Petitions

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HARVARD UNIVERSITY & MEDICAL SCHOOL
C/O WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application	:	
Sinclair, et al.	:	
Application No. 11/053,185	:	DECISION ON APPLICATION
Filed: February 8, 2005	:	FOR PATENT TERM ADJUSTMENT
Docket No. H0498.70336US00	:	

This is a decision on the petition under 37 CFR 1.705(b), filed April 8, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred ninety-five (195) days to one hundred thirty-three (133) days.

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

On February 14, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was one hundred ninety-five (195) days.

The Office initially determined a patent term adjustment of one hundred ninety-five (195) days based on an adjustment for PTO delay of three hundred sixty-six (366) days pursuant to 37 CFR 1.703(a)(1), and sixteen (16) and seventeen (17) days pursuant ot 37 CFR 1.703(a)(2), reduced by four (4), twenty-eight (28), sixty-one (61) and ninety (90) days of applicant delay pursuant to 37 CFR 1.704(b), and twenty-one (21) days of applicant delay pursuant to 37 CFR 1.704(c)(8).

Applicants point out that they should have been assessed additional days of delay under 37 CFR 1.704(b). The Office mailed a final Office action on April 29, 2008. Applicants did not file a reply until they filed an RCE on September 29, 2008 (made timely for purposes of avoiding abandonment by obtaining a two month extension of time). Accordingly, pursuant to 37 CFR 1.704(b), sixty-two (62) days of applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred thirty-three (133) days** (399 (366+16+17) days of PTO delay, reduced by 266 (4+28+21+62+61+90) days of applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen

Patent Term Adjustments

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

Application Number*: 11053185 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11053185

Application Filing Date	02/08/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	399
A Delays	399	PTO Manual Adjustment	-62
B Delays	0	Applicant Delay (APPL)	204
C Delays	0	Total PTA (days)	133

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
120	06/03/2011		P028	Adjustment of PTA Calculation by PTO		62	0
109	02/14/2011		MN/=.	Mail Notice of Allowance			0
108	02/11/2011		IREV	Issue Revision Completed			0
106	02/11/2011		N/=.	Notice of Allowance Data Verification Completed			0
105	02/11/2011		DOCK	Case Docketed to Examiner in GAU			0
104	02/11/2011		CNTA	Allowability Notice			0
107	02/10/2011		OVER	Document Verification			0
97	12/07/2010		FWDX	Date Forwarded to Examiner			0
103	12/01/2010		IDSC	Information Disclosure Statement considered			0
102	12/01/2010		IDSC	Information Disclosure Statement considered			0
96	12/01/2010		A...	Response after Non-Final Action			0
95	12/01/2010		RCAP	Reference capture on IDS			0
94	12/01/2010		M844	Information Disclosure Statement (IDS) Filed			0
93	12/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
92	12/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
91	09/17/2010		CADB	Correspondence Address Change			0
90	09/01/2010	08/15/2010	MCTNF	Mail Non-Final Rejection	17		79
89	08/30/2010		CTNF	Non-Final Rejection			0
87	07/14/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
86	06/30/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
81	04/20/2010		FWDX	Date Forwarded to Examiner			0
78	04/20/2010		ABN9	Disposal for a RCE / CPA / R129			0
88	04/15/2010		IDSC	Information Disclosure Statement considered			0
83	04/15/2010		RCAP	Reference capture on IDS			0
82	04/15/2010		M844	Information Disclosure Statement (IDS) Filed			0
80	04/15/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
79	04/15/2010	01/15/2010	RCEX	Request for Continued Examination (RCE)		90	74
77	04/15/2010		XT/G	Request for Extension of Time - Granted			0
76	04/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
75	04/15/2010		BRCE	Workflow - Request for RCE - Begin			0
74	10/15/2009	09/29/2009	MCTFR	Mail Final Rejection (PTOL - 326)	18		71
73	10/13/2009		CTFR	Final Rejection			0
72	08/08/2009		FWDX	Date Forwarded to Examiner			0
71	05/29/2009	03/29/2009	A...	Response after Non-Final Action		61	66
70	05/29/2009		XT/G	Request for Extension of Time - Granted			0
69	04/20/2009		CADB	Correspondence Address Change			0
68	04/14/2009		PA...	Change in Power of Attorney (May Include Associate POA)			0
67	04/13/2009		CAD	Correspondence Address Change			0
66	12/29/2008		MCTNF	Mail Non-Final Rejection			0
65	12/22/2008		CTNF	Non-Final Rejection			0
62	10/17/2008		FWDX	Date Forwarded to Examiner			0
60	10/17/2008		FWDX	Date Forwarded to Examiner			0
58	10/17/2008		ABN9	Disposal for a RCE / CPA / R129			0
64	09/29/2008		IDSC	Information Disclosure Statement considered			0
63	09/29/2008		M844	Information Disclosure Statement (IDS) Filed			0
61	09/29/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
59	09/29/2008		RCEX	Request for Continued Examination (RCE)			0
57	09/29/2008		XT/G	Request for Extension of Time - Granted			0
55	09/29/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
54	09/29/2008		BRCE	Workflow - Request for RCE - Begin			0
53	07/21/2008		MP033	Mail-Petition Decision - Granted			0
52	07/21/2008		P033	Petition Decision - Granted			0
51	07/21/2008		PA...	Change in Power of Attorney (May Include Associate POA)			0
50	07/19/2008		C.AD	Correspondence Address Change			0
49	04/29/2008		PET.	Petition Entered			0
48	04/29/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
47	04/28/2008		CTFR	Final Rejection			0
45	02/20/2008		FWDX	Date Forwarded to Examiner			0
46	02/07/2008		IDSC	Information Disclosure Statement considered			0
44	02/07/2008	01/17/2008	M844	Information Disclosure Statement (IDS) Filed		21	42
38	02/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
42	01/17/2008	12/20/2007	A...	Response after Non-Final Action		28	37
41	01/17/2008		XT/G	Request for Extension of Time - Granted			0
40	01/17/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
37	09/20/2007		MCTNF	Mail Non-Final Rejection			0
36	09/17/2007		CTNF	Non-Final Rejection			0
32	07/12/2007		FWDX	Date Forwarded to Examiner			0
31	07/09/2007		ELC.	Response to Election / Restriction Filed			0
30	07/09/2007		XT/G	Request for Extension of Time - Granted			0
27	04/09/2007	04/08/2006	MCTRS	Mail Restriction Requirement	366		0.5
26	04/02/2007		CTRS	Restriction/Election Requirement			0
33	03/08/2007		IDSC	Information Disclosure Statement considered			0
28.7	03/08/2007		M844	Information Disclosure Statement (IDS) Filed			0
28	03/08/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
25	03/16/2006		C.ADB	Correspondence Address Change			0
34	11/14/2005		IDSC	Information Disclosure Statement considered			0
24.7	11/14/2005		M844	Information Disclosure Statement (IDS) Filed			0
24	11/14/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
23	10/21/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
19	10/21/2005		DOCK	Case Docketed to Examiner in GAU			0
18	08/19/2005		WRDIPE	Application Return from OIPE			0
17	08/19/2005		COMP	Application Is Now Complete			0
14	08/19/2005		RDIPE	Application Return TO OIPE			0
13	08/19/2005		OIPE	Application Dispatched from OIPE			0
12	08/19/2005		COMP	Application Is Now Complete			0
7	08/17/2005		CRFE	CRF Is Good Technically / Entered into Database			0
21	08/08/2005		A.PE	Preliminary Amendment			0
16	08/08/2005	08/04/2005	FLFEE	Payment of additional filing fee/Preexam		1	6
10	08/08/2005		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
9	08/08/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
8	08/08/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
35	07/28/2005		IDSC	Information Disclosure Statement considered			0
22	07/28/2005		RCAP	Reference capture on IDS			0
20.7	07/28/2005		M844	Information Disclosure Statement (IDS) Filed			0
20	07/28/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
6	05/04/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	04/19/2005		L128	Cleared by L&R (LARS)			0
3	02/27/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	02/19/2005		SCAN	IFW Scan & PACR Auto Security Review			0
15	02/08/2005		CLAIM	Claim Preliminary Amendment			0
1	02/08/2005		IEXX	Initial Exam Team nn			0
0.5	02/08/2005		EFILE	Filing date			0

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MAILED
AUG 23 2010
OFFICE OF PETITIONS

Lena T. Van Asdale
2573 Rampart Terrace
Reno, NV 89509

In re Application of Shawn Van Asdale :
Application No. 11/053,276 :
Filing Date: February 8, 2005 :
Attorney Docket No. 1002 :

Decision on Petition

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

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Facts

On August 5, 2009, the Office mailed a non-final Office action setting a shortened statutory period for reply of three (3) months.

The Office did not receive a reply or a request for an extension of time in response to the Office action. As a result, the application became abandoned on November 6, 2009.

The Office mailed a Notice of Abandonment on February 17, 2010.

The petition states,

> The delay in filing the reply to the Office action dated August 5, 2009, was due to a docketing error. As correspondence is received from the Patent Office on this matter and other pending matters before the Patent Office, the correspondence and any due dates are put on the attorney's calendar. For an unknown reason, the Office action dated 8/5/2009 for application number 11/053,276, was not properly placed on the calendar.

Discussion

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

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

(2) The petition fee,

(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) A terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

As to items (1) and (2), petitioner has supplied a reply to the non-final Office action in the form of an amendment and payment of $865 for an extension of time. Petitioner has also submitted $255 for the petition fee.

Payment for an extension of time is unnecessary for relief to be granted under 37 CFR 1.137(b). As stated in MPEP 711.03(c)(II)(A), "A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply."

The fee for a petition under 37 CFR 1.137(a) is $270, not $255.

In view of the discussion above, the Office has applied $15 of the $865 payment for an extension of time to the petition fee and scheduled a refund of the remaining $850.

As to item (3), the record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[2]

A delay resulting from an error, such as a typographical error or docketing error, on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

A. The error was the cause of the delay at issue;

B. There was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

---

[1] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

C. The employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[3]

See MPEP 711.03(c)(III)(C)(2).

The record fails to clearly identify the error that resulted in the failure to timely reply to the August 5, 2009 Office action. Petitioner *appears* to assert the August 5, 2009 Office action was received, but was not "properly placed on the calendar." Was the Office action placed on the calendar? If yes, what made the entry improper? For example, was the due date for the action incorrectly entered?

The record fails to clearly identify steps in place to ensure information would be reliably entered on the calendar. Any request for reconsideration should identify and discuss the steps in place to ensure information would be reliably entered on the calendar.

The record fails to clearly identify the individual who made the error. Specifically, although the petition appears to imply Lena Van Asdale made the docketing error, the petition fails to clearly state such a fact. Any request for reconsideration should identify the individual who made the error and include evidence demonstrating the individual was sufficiently trained and experienced with regard to the function and routine for its performance to such an extent that reliance upon the individual to accurately perform the task represented the exercise of the level of due care normally used by reasonable and prudent individuals when handling their most important business.

A relevant factor that may be considered when evaluating the reliability of the steps in place to ensure information would be correctly placed on the calendar is the past success, or lack of success, of the steps. Any request for reconsideration should identify any other instances within the last three years where a paper mailed by the Office was not properly placed on the calendar.

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 to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($810 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a PDF "fillable" version of a 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064.pdf.

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[3] The showing should include information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

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.[4] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

[4] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6981888	2006-01-03	11053303	2005-02-08	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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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	/ MICHAEL S O'KEEFE /	Date (YYYY-MM-DD)	2010-09-01
Name	Michael S O'Keefe		
Enter Reel and Frame Number		Remove	
Reel Number	016270	Frame Number	0562
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6981888
Issue Date: January 3,2006
Application No. 11053303
Filed: February 8,2005
Attorney Docket No. 40301-1011

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

This is a decision on the electronic petition, filed September 1,2010 ,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 1,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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In re Application of
Vahe Stephan Yacoubian

Application No. 11053622

Filed: February 8,2005

Attorney Docket No. 225790-500

: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 21-MAR-2012 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

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

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

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

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

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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	11/053,622	Confirmation Number	7435	Filing Date	2005-02-08
Attorney Docket Number (optional)	225790-500	Art Unit	3763	Examiner	Nathan R Price
First Named Inventor	Vahe Stephan Yacoubian et al.				
Title of Invention	System, Methods and Apparatus For Cerebral Protection				

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
Vahe	Stephan	Yacoubian	

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	/James W. Inskeep, Reg. No. 33,910/	Date (YYYY-MM-DD)	2012-03-21
Name	James W. Inskeep, Esq.	Registration Number	33910

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

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

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

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December 15, 2010

Patent No. : 7,529,766 B2
Appl. No. : 11/053,662
Inventor(s) : Ronen Shilo, et al.
Issued : May 5, 2009
Title : **METHOD AND SYSTEM FOR USE WITH THE INTERNET**
Docket No. : **Conduit 1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

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

HENRY BRENDZEL
5 Gilbert Place
Millburn NJ 07041

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 08 2011
OFFICE OF PETITIONS

HENRY BRENDZEL
5 GILBERT PLACE
MILLBURN, NJ 07041

In re Patent No. 7,529,766	:	
Issue Date: May 5, 2009	:	
Application No. 11/053,662	:	DECISION ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. Conduit 1	:	

This is a decision on the petition, filed, January 4, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Conduit, Ltd, petitioner further states that the assignee's name was not indicated on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Conduit, Ltd was the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

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

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/053,682	02/09/2005	Patrick Peter Mario Aarts	A0408	8278

33249 7590 01/31/2011
HEXION SPECIALTY CHEMICALS, INC.
12650 Directors Drive, Suite 100
Stafford, TX 77477

EXAMINER
PEPITONE, MICHAEL F

ART UNIT	PAPER NUMBER
1767	

NOTIFICATION DATE	DELIVERY MODE
01/31/2011	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):

lisa.jones@hexion.com
tammy.hodges@hexion.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte PATRICK PETER MARIO AARTS et al.

Application 11/053,682
Technology Center 1700

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)," filed July 7, 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. § 1.137(b) (unintentional delay). *See* 75 Fed. Reg. 15,690 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On October 1, 2008, Appellants filed an Amended Appeal Brief, as required by a prior Notification of Non-Compliant Appeal Brief.

2. On May 29, 2009, a Patent Appeals Specialist entered a second Notification of Non-Compliant Appeal Brief ("second Notification"). The second Notification granted a period of one month within which to file a corrected Appeal Brief, specifically to include a completed Summary of Claimed Subject Matter with a summary of independent claim 36.

3. On July 7, 2010, more than one month after the second Notification was entered, Appellants filed the Petition and pages of a Supplemental Appeal Brief with a summary of claim 36.

4. Appellants' Petition states that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional." (Petition, p. 2.)

5. On July 8, 2010, the fee required under 37 C.F.R. 1.17(m) was charged.

6. On December 1, 2010, the Supervisory Patent Examiner entered a Notice of Abandonment for the failure to receive a timely reply to the Notification of May 29, 2009.

RELEVANT AUTHORITY

An Appellant may file a petition to revive an abandoned application in certain circumstances. For example, an unintentionally abandoned application may be revived under 37 C.F.R. § 1.137(b), which 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.

DISCUSSION

Appellants' application became abandoned one month after the second Notification of Non-Complaint Appeal Brief was entered because Appellants failed to timely file an Amended Appeal Brief with a summary of independent claim 36.

Appellants filed the Petition, stating that the entire delay in filing an Amended Appeal Brief was unintentional, along with pages of an amended Appeal Brief that provide a summary of claim 36. Appellants also paid the fee required under 37 C.F.R. § 1.17(m).

DECISION

Appellants have satisfied the requirements of 37 C.F.R. § 1.137(b) and their Appeal Brief is in compliance with 37 C.F.R. § 41.37. In view of the foregoing, the Petition is GRANTED.

James T. Moore
Acting Chief Administrative Patent Judge

Hexion Specialty Chemicals, Inc.
12650 Directors Drive, Suite 100
Stafford, TX 77477

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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NORTON ROSE OR LLP
1, Place Ville Marie
SUITE 2500
MONTREAL QC H3B 1R1 CA CANADA

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AUG 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,320,144 :
Issued: January 22, 2008 :
Application No.: 11/053,860 : NOTICE
Filed: May 9, 2005 :
Attorney Docket No: **17314-1US PTN/DF** :

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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AUG 23 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,752,628	: DECISION ON APPLICATION
Volker Sauermann	: FOR PATENT TERM
Issued : July 6, 2010	: ADJUSTMENT AND NOTICE OF
Application No. 11/053,899	: INTENT TO ISSUE CERTIFICATE
Filed: February 10, 2005	: OF CORRECTION
Attorney Docket No.09432.0031-00	:

This is in response to the "Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation" filed December 18, 2009, which will be treated as a petition under 37 CFR 1.705(b)[1]. Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is **one thousand, five hundred and twenty-two (1,522)days is GRANTED TO THE EXTENT INDICATED HEREIN.**

On November 16, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 1107 days. On December 18, 2009, patentees submitted the instant petition. Applicant maintains that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and that the patent term adjustment

[1] It is noted that the instant petition was filed on December 18, 2009, prior to the payment of the issue fee. It is further noted that the application has since matured into U.S. Patent No. 7,752,628 and that additional adjustment to the patent term is warranted. This decision is being treated under 37 CFR 1.705(b), notwithstanding. If patentees determine that a petition under 37 CFR 1.705(d) is appropriate, patentees must filed said petition with two months of the date of issuance patent and the petition should be accompanied by the appropriate fee under 37 CFR 1.18(e).

at should be reduced by an additional 26 days for the filing of an Information Disclosure Statement on July 22, 2009. Patentees also assert that an additional adjustment to the patent term of 21 days is warranted under 37 CFR 1.702(a)(4) for the mailing of a Notice of Allowance four months and 26 days after a response was filed on June 26, 2009.

Applicants' argument has been considered and is well taken. On July 22, 2009, patentees submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) after filing a reply to the non-final Office action on June 26, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed July 22, 2009 reveals that applicant did not include a statement under 37 CFR 1.704(d).[2] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 26 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, June 27, 2009, and ending on the date that the IDS was filed, July 22, 2009. A **period of reduction of 26 days** will be entered accordingly.

Patentees also note that a period of adjustment of 21 days should be entered under 37 CFR 1.702(a)(2)and 37 CFR 1.703(a)(2) for the failure of the Office to mail a notice of allowance within four months of the date a reply under 37 CFR 1.111 was filed. It is noted that the reply was filed June 26, 2009, yet the notice of allowance was not mailed until November 16, 2009—four months and 21 days after the response was filed. Thus, it is appropriate to enter **a period of adjustment under 37 CFR 1.702(a)(2)and 37 CFR 1.703(a)(2) of 21 days.**

---

[2] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Further review of the file history reveals that a period of adjustment of 24 days should be entered under 37 CFR 1.702(a)(4)and 37 CFR 1.703(a)(6) for the failure of the Office to issue the patent within four months of the date the issue fee was paid. It is noted that the issue fee was paid February 12, 2010, yet the patent did not issue until July 6, 2010—four months and 24 days after the issue fee was paid. **Thus, it is appropriate to enter a period of adjustment under 37 CFR 1.702(a)(4)and 37 CFR 1.703(a)(6) of 24 days.**

It is noted that a reduction to the patent term of 120 days was entered for the filing of the instant petition. Pursuant to 37 CFR 1.704(e), the filing of the petition under 37 CFR 1.705(b) will not be considered a failure to engage in reasonable prosecution of the application under 37 CFR 1.704(c)(10). **Accordingly, the period of reduction of 120 days is being removed.**

In view thereof, the determination of the patent term adjustment is 1,522 days (2,008 days of Office delay - 460 days of overlap - 26 days of applicant delay).

Deposit account 06-0916 will be charged $200.00 for the fee set forth under 37 CFR 1.18(e).

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

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term

of the above-identified patent is extended or adjusted by **one thousand, five hundred and twenty-two (1,522) days**.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,752,628 B2

DATED : Jul. 6,2 010

INVENTOR(S) : Sauermann

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 (1428) days

Delete the phrase "by1428 days" and insert – by 1522 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Application of	:	
Nobuyuki Ozaki	:	ON REQUEST FOR
Patent Number: 7,570,280	:	RECONSIDERATION OF FINAL
Issue Date: 08/04/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/053947	:	and
Filing or 371(c) Date: 02/10/2005	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.:	:	CERTIFICATE OF CORRECTION
09108.0006	:	

This is a decision on the renewed petition filed on May 12, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred twelve (1212) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred twelve (1212) days is **GRANTED**.

On March 15, 2010 the Office mailed a "DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 1212 days.

On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 1451 days.

The Office notes that the decision of April 21, 2010, was issued in error as it accorded patentee 239 more days of patent term adjustment than were warranted. Accordingly, the decision of April 21, 2010, is vacated. The present decision supersedes the decision mailed on April 21,

2010, and corrects the record to reflect the decision mailed March 15, 2010 correctly determined the patent term adjustment of 1212 days.

The Office has determined that the patent term adjustment for the above-identified patent is **1212 days**. The 239 additional days of adjustment will be removed.

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

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred twelve (1212) days**.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,570,280 B2

DATED : August 4, 2009

INVENTOR(S) : Ozaki

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 1451 days.

Delete the phrase "by 1451 days" and insert – by 1212 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

Mail Date: 09/07/2010

Applicant	: Erich Thallner	: DECISION ON REQUEST FOR
Patent Number	: 7598152	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/053,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **680** 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
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CANTOR COLBURN LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

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FEB 24 2012
OFFICE OF PETITIONS

In re Patent No. 7,284,281
Issue Date: October 23, 2007
Application No. 11/053,977
Filed: February 9, 2005
Attorney Docket No.: WJO0057US

ON PETITION

This is a decision on the petition, filed January 23, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 23, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

It is noted that the 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. Petitioner is reminded, however, that the mere filing of a change of correspondence address does not affect fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, an appropriate "fee address" and/or "customer number" form should be submitted to the Maintenance Fee Division. A courtesy copy of this decision is being mailed to the address given on the petition.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAEGYOO JANG
1800 DIAGONAL ROAD, SUITE 510
ALEXANDRIA, VA 22314

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,281,737	2007-10-16	11/053,978	2005-02-08	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

● A sole patentee

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

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

○ The assignee of record of the entire interest

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

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/William G Ellis/	Date (YYYY-MM-DD)	2012-01-18
Name	William G. Ellis		

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. 7281737
Issue Date: October 16,2007
Application No. 11053978
Filed: February 8,2005
Attorney Docket No.

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

This is a decision on the electronic petition, filed January 18,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 18,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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.
11/054,243	02/09/2005	Stephen Quake	HELI-038/01US 28526/207	9445

7590 06/08/2011
BROWN RUDNICK LLP
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER
WHISENANT, ETHAN C

ART UNIT	PAPER NUMBER
1634	

MAIL DATE	DELIVERY MODE
06/08/2011	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

June 8, 2011

BROWN RUDNICK LLP
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Quake, Stephen	:	**DECISION ON PETITION**
Application No. 11/054,243	:	
Filed: 02/09/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. HELI-38/01US	:	***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) February 09, 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.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 04 2011

OFFICE OF PETITIONS

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

In re Application of	:	
Alejandro Acero et al	:	
Application No. 11/054,301	:	DECISION GRANTING PETITION
Filed: February 9, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 310214.01	:	

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 April 25, 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 2626 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.*

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)
7204880	2007-04-17	11/054,322	2005-02-08	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Philip A Rodda/	Date (YYYY-MM-DD)	2011-11-16
Name	Philip A Rodda		

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. 7204880
Issue Date: April 17,2007
Application No. 11054322
Filed: February 8,2005
Attorney Docket No. STH 308

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD S. WESORICK
TAROLLI, SUNDHEIM, COVELL, & TUMMINO L.L.P.
SUITE 1700
1300 EAST 9TH STREET
CLEVELAND, OH 44114-1501

MAILED

MAR 10 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,981,857 :
Issue Date: January 3, 2006 :
Application No. 11/054,568 :
Filed: February 9, 2005 :
Attorney Docket No. 31180.27787 :

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

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

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

BROOKHAVEN SCIENCE ASSOCIATES/
BROOKHAVEN NATIONAL LABORATORY
BLDG. 490C - P.O. BOX 5000
UPTON, NY 11973

Mail Date: 01/12/2011

Applicant	: Radoslav Adzic	: DECISION ON REQUEST FOR
Patent Number	: 7632601	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/054,587	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **980** 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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KILPATRICK TOWNSEND & STOCKTON LLP / AMAT
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,776,156
Issued: August 16, 2010
Application No. 11/055,191
Filed: February 10, 2005
Attorney Docket No. A9163/T57900

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

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(d)" filed October 15, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 1056 days to 1925 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 request is being treated under 37 CFR 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred forty-five (1245) days is **GRANTED to the extent indicated herein**.

Patentee's arguments have been considered, and found persuasive to an extent. The B delay accorded of 49 days is incorrect. However, the correct B delay is 238 days, not 918 days as calculated by patentee. Patentee's calculation both i) errs in counting the number of days in the over 3 year period and ii) fails to take into account that a notice of appeal was filed on May 7, 2008.

First, the over three year period is 919 days, not 918 days, counting the number of days beginning on February 11, 2008, the day after the three year anniversary of the filing date of the application, and ending on August 17, 2010, the date of issuance of the patent. Secondly, the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this

[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).

instance, the period is 681 days, beginning on May 7, 2008 and ending on March 18, 2010, the date of the Board decision. Thus, B delay is 238 (919 - 681) days. (The 49 days is being removed and corrected to 238 days).

It is further noted that the Office does not calculate the "A delay" to include the time for successful appellate review. The Office considers the delay for successful appellate review to be a "C delay." Thus, the Office shows the "A delay" as 416 days and the "C delay" as 681 days, and not as a total delay of "A" of 1097 days.[2]

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e).

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred forty-five (1245)** days.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[2]Under 35 U.S.C 154 (b)(1), an applicant is entitled (subject to certain conditions and limitations) to patent term adjustment fot the following reason: (1) if the USPTO fails to take certain actions during the examination and issue process within specified time frames (35 U.S.C. 154(b)(1)(A)), which are known as the "A" delays; (2) if the USPTO fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B), which are known as the "B" delays; and (3) for delays due to interference, secrecy order or successful appellate review (35 U.S.C. 154(b)(1)(C)), which are known as the "C" delays.

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,776,156 B2

DATED : August 17, 2010

INVENTOR(S) : Maolin Long

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 (1056) days

Delete the phrase "by 1056 days" and insert – by 1245 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
SEP 22 2011
OFFICE OF PETITIONS

Yudell Isidore Ng Russell PLLC
8911 N. Capital of Texas Hwy.,
Suite 2110
Austin TX 78759

In re Application of	:	
James Stephen FIELDS, Jr. et al.	:	ON PETITION
Application No. 11/055,402	:	
Filed: February 10, 2005	:	
Atty. Docket No.: AUS920040966US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-compliant Appeal Brief mailed December 12, 2007 (Notice), which set a shortened period for reply of one (1) month. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned January 13, 2008. A Notice of Abandonment was mailed August 29, 2008.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Notice mailed December 12, 2007, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

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

The application will be referred to Technology Center Art Unit 2189 for consideration of the filed Response.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE NM 87102

MAILED

MAR 18 2011

OFFICE OF PETITIONS

In re Patent No. 7,528,105 :
Issue Date: May 5, 2009 :
Application No. 11/055,428 : DECISION ON PETITION
Filed: February 10, 2005 :
Attorney Docket No. 30817-HETERO :

This is a decision on the Request, filed March 25, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was previously submitted.

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

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

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $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. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) previously submitted.

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. 7,528,105.

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

PULSE-LINK, INC.
2270 CAMINO VIDA ROBIE
SUITE E
CARLSBAD CA 92008

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Lakkis et al.	:	
Application No. 11/055,525	:	DECISION ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. 00203	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 2, 2010 and the Supplemental petition filed September 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 12, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 2009. A Notice of Abandonment was mailed August 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, 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 2618 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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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PULSE-LINK, INC.
2270 CAMINO VIDA ROBIE
SUITE E
CARLSBAD CA 92008

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Lakkis et al.	:	
Application No. 11/055,525	:	DECISION ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. 00203	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 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 4, 2011, as required by the Notice of Allowance and Fee(s) Due mailed February 4, 2011. Accordingly, the date of abandonment of this application is May 5, 2011. A Notice of Abandonment was mailed May 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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) 272-7751.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,823,887 :
Issue Date: November 2, 2010 :
Application No. 11/055,561 : DECISION ON PETITION
Filed: February 10, 2005 :
Attorney Docket No. U 015628-3 :

This is a decision on the Petition For Correction of Assignee's Name, filed March 2, 2011, which is being treated as a Petition under 37 CFR §3.81(b), requesting correction on the Title Page of the subject patent to correct assignee's name.

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

Petitioner urges that the present Petition was submitted to correct assignee's name and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction be issued to correct assignee's name to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. After further review of the Office records, a corrected Certificate of Correction was previously signed and sealed on April 19, 2011. (copy enclosed)

Inquiries related this communication should be directed to Cheryl Gibson-Baylor 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.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,823,887 B2
APPLICATION NO. : 11/055561
DATED : November 2, 2010
INVENTOR(S) : Siegfried Geldenhuys

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

Title page, Item (73), assignee: "Weir-Envirotech (Proprietary) Limited" should read
--Weir Minerals Africa (Proprietary) Limited--

Signed and Sealed this
Nineteenth Day of April, 2011

David J. Kappos

David J. Kappos
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Wendy W. Koba
PO Box 556
Springtown PA 18081

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,199,870	:	
Andrekson et al.	:	
Issue Date: April 3, 2007	:	
Application No. 11/055,742	:	LETTER REGARDING
Filed: February 10, 2005	:	FEE DEFICIENCY PAYMENT
Attorney Docket No. 0100	:	

This is in response to the letter notifying the Office of loss of entitlement to small entity status filed September 30, 2010, pursuant to 37 C.F.R. §1.28(C).

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

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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 22 2012

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 7,349,907	: DECISION DISMISSING PETITION
Issue Date: March 25, 2008	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 11/056,022	: REQUEST FOR CERTIFICATE OF
Filed: February 11, 2005	: CORRECTION
Attorney Docket No. 18358-008	:

This is a decision on the petition, filed February 22, 2012, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/123,788, filed April 16, 2002, by way of a certificate of correction.

The petition is **dismissed**.

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

The instant application was filed February 11, 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.

The Office notes:

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

MPEP 1481.03(II)(B) .

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to add or correct a claim under 35 U.S.C. 120 for benefit of a prior-filed nonprovisional application.

In this instance, petitioner has not satisfied condition (C) above because he did not submit a grantable petition under 37 CFR 1.78(a)(3).

A petition for acceptance of an unintentionally delayed claim under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) and (iii) to the prior-filed application (unless previously submitted);

(2) the surcharge set forth in 37 CFR 1.17(t); and

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

The petition fails to comply with item (1) above.

The petition must be dismissed because the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) has not be properly supplied. Specifically, petitioner did not submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or in an ADS. Pursuant to 37 CFR 1.78(a)(2)(iii), the reference to the prior-filed nonprovisional application must be included in an application data sheet (§ 1.76) or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. Additionally, the Office notes that the Certificate of Correction form submitted on February 22, 2012, requested correction of the first paragraph of the specification, but not the front page, of the Letters Patent.

Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

In addition, Application No. 10/657,757 does not contain a reference indicating that it is a continuation of Application No. 10/123,788, filed on April 15, 2002. A petition under 37 CFR 1.78(a)(3) was filed in Application No. 10/657,757 on February 22, 2012 and dismissed on March 21, 2012. Until an appropriate reference is entered in Application No. 10/657,757, the

desired change cannot be entered in the subject application. In other words, appropriate references must be present in each intermediate application in the chain of prior applications.

The following must occur to effectuate the desired changes:

(1) Petitioner must file a renewed petition in Application No. 10/657,757 to add a delayed benefit claim to Application No. 10/123,788 and the petition must be granted. [Please review the petition decision in Application No. 10/657,757, mailed March 21, 2012 for further explanation.] &

(2) Petitioner must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by either a ADS or an amendment to the specification listing the status of each nonprovisional parent application and adding the new benefit claim.[1] Additionally, petitioner must submit a completed Certificate of Correction form listing the status of each nonprovisional parent application and adding the new reference to the prior-filed nonprovisional application on both the front page and the first paragraph of the specification of the Letters Patent. The text of the correction, as well as the location of the error in the printed patent should be identified on form PTO/SB/44 by column and line number.

The Office acknowledges receipt of the $1,410 surcharge fee, as well as the $100 certificate of correction fee. No additional fees will be required when the renewed petition and certificate of correction are filed.

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

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

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

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

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, any ADS or amendment submitted on renewed petition must be signed in accordance with 37 CFR 1.33(b).

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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.
11/056,046	02/11/2005	Steven Bress		3690

7590 08/01/2011

Steven Bress
7851-C Beechcraft Avenue
Gaithersburg, MD 20879

EXAMINER
LO, KENNETH M

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
08/01/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven Bress
7851-C Beechcraft Avenue
Gaithersburg MD 20879

In re Application of: BRESS et al.	)	
Application No. 11/056046	)	Petition under 37 CFR 1.324
Patent No. **77584334**	)	
Attorney Docket No.	)	
Filed: February 11, 2005	)	
For: **SYSTEMS AND METHODS FOR**	)	
AN IMPROVED TAILGATE DEVICE	)	

In view of the papers and petition filed May 19, 2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.324. The inventorship of this application has been changed by removing "Dan Bress" as co-inventor, such that the current inventorship is now Bress, Steven (Germantown, MD); Menz, mark Joseph (Germantown, MD).

The petition has been **Granted**.

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

Inquiries to this decision may be directed to undersigned at (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Mar-11

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO CA 92101

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of Rafey et al. Application Number: 11/056,208 Filing Date: 02/11/2005 Attorney Docket Number: 113748-6060US	: : : : : :	ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b) filed on December 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 29, 2010, for failure to timely reply to the final Office action mailed on May 28, 2010, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 16, 2010.

Receipt of the request for continued examination (RCE) and submission under 37 CFR 1.114 is acknowledged.

The RCE fee of $810.00 will be charged to counsel's deposit account as authorized on the RCE transmittal sheet.

The application is referred to Technology Center Art Unit 2423 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/056,242	02/14/2005	Honchin En	Q83905	4978

23373 7590 04/22/2011
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
VAN, LUAN V

ART UNIT	PAPER NUMBER
1724	

NOTIFICATION DATE	DELIVERY MODE
04/22/2011	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):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.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

April 20, 2011

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

In re Application of	:	
Honchin En	:	**DECISION ON PETITION**
Application No. 11056242	:	
Filed: 02/14/2005	:	
Attorney Docket No. **Q83905**	:	

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) February 14, 2005.

The petition is **DISMISSED.**

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, (One (1) set for EFW filings, 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 patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. 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
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/056,242	02/14/2005	Honchin En	Q83905	4978

7590 07/01/2011
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
VAN, LUAN V

ART UNIT	PAPER NUMBER
1724	

NOTIFICATION DATE	DELIVERY MODE
07/01/2011	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
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www.uspto.gov

June 29, 2011

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

In re Application of	:	
Honchin En	:	**DECISION ON PETITION**
Application No.11056242	:	
Filed: 02/14/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **Q83905**	:	***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) May 27, 2011.

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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Alexandria, VA 22313-1450
www.uspto.gov

MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
E. Russell Ives Jr.	:	
Application No. 11/056,331	:	DECISION ON PETITION
Filed: February 11, 2005	:	TO WITHDRAW
Attorney Docket No. 063538-5001US	:	FROM RECORD
	:	

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

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Alison B. Weisberg on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Russell Ives at the address indicated below.

There is an outstanding Office action mailed July 8, 2010 that requires a reply from the applicant.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Russell Ives**
346 Landi Court
Wyckoff, NJ 07481

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
11/056,331	02/11/2005	E. Russell Ives JR.	063538-5001US

CONFIRMATION NO. 8048

POWER OF ATTORNEY NOTICE

28977
MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

OC000000042852252

Date Mailed: 08/02/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/15/2010.

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

/tsjohnson/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-1-11

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 11056344 Patent No.: 7811334

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 – 9D40-E
Palm Location 7580

Note: _____

_____

Omega Lewis

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

SPE

3738
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/056,660	02/11/2005	Varadharajan Radhamani Basker	CFLAY.00244	6067

22858 7590 08/13/2010
CARSTENS & CAHOON, LLP
13760 NOEL ROAD, SUITE 900
DALLAS, TX 75240

EXAMINER
ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
3742	

MAIL DATE	DELIVERY MODE
08/13/2010	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

CARSTENS & CAHOON, LLP
P.O. BOX 802334
DALLAS, TX 75380

In re Application of: Steven A Bresnahan et al
Appl. No.: 11/056,660
Filed: February 11, 2005
For: FRYER ATMOSPHERE CONTROL FOR MOLD FORM FRYER

DECISION ON PETITION UNDER 37 C.F.R § 1.84 (a) (2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a) (2), filed February 11, 2005, requesting acceptance of color drawings. The petition requests that all the drawings, which are in color, be accepted in lieu of black and white drawings.

Review of the application and of the claims shows that color drawings of Figures 19-29 are not necessary to adequately describe the invention and disclose the subject matter sought to be patented.

Applicant's submission does not meet all the criteria set out. Accordingly, the petition is **DENIED**.

/Tu Hoang/
Supervisory Patent Examiner
AU3742

UNITED STATES 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. 6983561
Issue Date: January 10,2006
Application No. 11056713
Filed: February 11,2005
Attorney Docket No. 3751.002A

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

This is a decision on the electronic petition, filed October 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 October 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)
6983561	2006-01-10	11056713	2005-02-11	3751.1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Dennis G. LaPointe/	Date (YYYY-MM-DD)	2011-10-13
Name	DENNIS G. LAPOINTE	Registration Number	40693

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SULLIVAN & WORCESTER LLP
1666 K STREET NW
WASHINGTON DC 20006

MAILED

FEB 11 2011

OFFICE OF PETITIONS

In re Application of	: DECISION ON PETITION
Szrek et al.	: UNDER 37 CFR 1.78(a)(3)
Application No. 11/056,857	: AND 37 CFR 1.78(a)(6)
Filed: February 11, 2005	: AND CERTIFICATE OF
Attorney Docket No. 21204.0139C1	: CORRECTION

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed October 28, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of the prior-filed applications by way of a certificate of correction.

The petitions are **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed applications was made within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and further failed to include a proper reference to the prior-filed applications as required by 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii).

On December 21, 2010 a Certificate of Correction was issued.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 24, 2011

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of	:	
Holers, Vernon Michael, et al	:	**DECISION ON PETITION**
Application No. 11/057,047	:	
Filed: 02/10/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 577712000500	:	***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) February 10, 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.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Miska HANNUKSEL, et **al.**	:	
Application No. 11/057,065	:	DECISION GRANTING PETITION
Filed: February 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **915-005.095-1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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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NOKIA CORPORATION
c/o Ware, Fressola, Van Der Sluys & Adolphson LLP
Building Five, Bradford Green
755 Main Street, PO Box 224
Monroe, CT 06468

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DEC 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Miska HANNUKSELA, et *al.*	:	
Application No. 11/057,065	:	DECISION GRANTING PETITION
Filed: February 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **915-005.095-1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 8, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2482 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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UNITED STATES 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 8, 2010

Patent No. :6224824
Ser. No. :09465575
Inventor(s) : Jun Shan Zhang et al.
Issued :May 1, 2001
Title :METHOD OF USING ALLOY STEEL HAVING SUPERIOR CORROSION
:RESISTANCE IN CORROSIVE ENVIRONMENT CONTAINING MOLTEN
:SALTS CONTAINING ALKALI OXIDES

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

Best Available Copy

	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 to submit responses) 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, an additional fee is required.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1544

Bachman & Lapointe, P.C.
900 Chapel Street, Ste 1201
New Haven, CT

/arg

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OCT 18 2010

OFFICE OF PETITIONS

MARK FARRELL PATENT LAW INC., PC
P.O. BOX 142056
SPOKANE, WA 99214

In re Application of	:	
Lisa G. SHAFFER, et *al.*	:	
Application No. 11/057,088	:	DECISION GRANTING PETITION
Filed: February 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SGL-0001**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Ms. Carol D. Laherty, Ph.D. appearing on the correspondence 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. If Ms. Laherty desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1631 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

cc: **CAROL D. LAHERTY, PH.D.**
SEED IP LAW GROUP, PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 11 2011

OFFICE OF PETITIONS

WALSTEIN BENNETT SMITH III
P. O. BOX 1668
GEORGETOWN TX 78628

In re Application of :
Finkelstein, et al. :
Application No. 11/057,121 : ON PETITION
Filed: February 12, 2005 :
Attorney Docket No. F7.2004.08C :
For: REAL TIME DETECTION OF CHANGED RESOURCES FOR PROVISIONING AND MANAGEMENT OF FABRIC-BACKPLANE ENTERPRISE SERVERS

This is a decision on petition under 37 CFR 1.137(a), filed November 4, 2010, requesting revival of the above-identified application.

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

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

The application became abandoned for failure to timely pay the issue fee within three months of the mail date of the July 30, 2010 Notice of Allowance and Fee(s) Due. Accordingly, the application became abandoned on October 31, 2010. A Notice of Abandonment was mailed on January 28, 2011.

Petitioners state that the delay in responding to the July 30, 2010 Notice of Allowance and Fee(s) Due was unavoidable because a well-trained, experienced individual failed to properly docket the issue fee due date in a reliable docketing system.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed; (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 (c) of this section.

This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. 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 or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (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). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

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

Petitioners assert that docketing error was the cause of delay in acting to prevent the application from becoming abandoned. A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. *See* MPEP 711.03(c)(III)(C)(2).

An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. Petitioners must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed in this instance to provide adequate notice that a reply was due. Petitioners must also supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried

out, and checks on the described work which were used to assure proper execution of assigned tasks.

ALTERNATIVE VENUE

If petitioners are unable to establish unavoidable delay, petitioners should strongly consider filing a petition under 37 CFR 1.137(b).

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 an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 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; (2) the petition fee as set forth in 37 CFR 1.17(m) ($810.00); (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 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 can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the 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 petitioners intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A revival petition fee must be submitted with a revival petition, as the fee is a statutory requirement.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WALSTEIN BENNETT SMITH III
P. O. BOX 1668
GEORGETOWN TX 78628

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of :
Finkelstein, et al. :
Application No. 11/057,121 : ON PETITION
Filed: February 12, 2005 :
Attorney Docket No. F7.2004.08C :
For: REAL TIME DETECTION OF CHANGED RESOURCES FOR PROVISIONING AND MANAGEMENT OF FABRIC-BACKPLANE ENTERPRISE SERVERS

This is a decision on petition under 37 CFR 1.137(b), filed April 15, 2011, requesting revival of the above-identified application.

The application became abandoned for failure to timely pay the issue fee within three months of the mail date of the July 30, 2010 Notice of Allowance and Fee(s) Due. Accordingly, the application became abandoned on October 31, 2010. A Notice of Abandonment was mailed on January 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of payment of the issue fee of $755.00 and a completed PTOL-85(B), (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. The petition under 37 CFR 1.137(b) is **GRANTED**.

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

DONALD W. MARKS
600 SOUTH 29TH ROAD
ARLINGTON, VA 22202

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Stephan K. Homewood	:	
Application No. 11/057,249	:	ON PETITION
Filed: February 15, 2005	:	
Attorney Docket No. 167-101	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 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 final Office action mailed August 8, 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 above-identified application became abandoned on November 9, 2010.

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

This matter is being referred to Technology Center AU 3652 for further processing.

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

Paper No.

MCDONALD HOPKINS LLC
600 Superior Avenue, East
Suite 2100
CLEVELAND OH 44114-2653

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Polston	:	
Application No. 11/057,260	:	DECISION ON PETITION
Filed: February 14, 2005	:	PURSUANT TO
Title: APPARATUS FOR CLEANING	:	37 C.F.R. § 1.137(B)
PIPES HAVING PUMPING AND	:	
VACUUMING CAPABILITY	:	

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

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

A final Office action was mailed on May 28, 2010 and set an extendable three-month period for response. A Request for Continued Examination was received on September 28, 2010, along with an amendment and a one-month extension of time so as to make timely the submission. The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment (notice), mailed November 19, 2010, which set an extendable one-month period for response. No response was received and no additional extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 20, 2010. A notice of abandonment was mailed on May 24, 2011.

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

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

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on December 16, 2011 can be processed in due course.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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

Paul Shanoski
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 1/12/2011

TO SPE OF : ART UNIT 2451

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/057267 Patent No.: 7610378 B2

CofC mailroom date: 1/4/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

JOHN FOLLANSBEE SPE — 2451 Art Unit

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

UNITED STATES 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.

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Patent No. 7553382	:	
Issue Date: 06/30/2009	:	
Application Number: 11/057400	:	NOTICE
Filing or 371(c) Date: 02/11/2005	:	
Attorney Docket Number: NANO018U	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on September 10, 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) 272-3231.

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

MAILED

DEC 19 2011

OFFICE OF PETITIONS

HOWARD M COHN
PATENT ATTORNEY LLC
30195 Chagrin Blvd, #300
CLEVELAND OH 44124

In re Application of Kenneth DENNING Application No. 11/057,401 Filed: February 11, 2005 Atty. Docket No. KDG-101us	: : DECISION DISMISSING PETITION : UNDER 37 CFR 1.137(b) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 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 reply in a timely manner to final Office action mailed May 14, 2007 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on August 15, 2007, and a Notice of Abandonment mailed December 12, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant Petition lacks item (1).

Regarding item (1), for the following reason: under MPEP 711.03(c)(II)(A)(2)(b), a reply for consideration of a petition for revival must be "(A) A Notice of Appeal and appeal fee; (B) an amendment under 37 CFR 1.116 that ... *prima facie* places the application in

condition for allowance; (C) an RCE ... or (D) the filing of a continuing application." Whereas Applicant has submitted amended claims, the claims are deemed to not put the case in condition for allowance (*See*, "Advisory Action" attached herewith). The submitted reply is not accepted, and the Petition 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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Robert DeWitty
Petitions Attorney
Office of Petitions

Encl. PTO-303, "Advisory Action Before the Filing of an Appeal Brief"

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/057,401	Applicant(s) DENNING, KENNETH	
	Examiner MELVIN CARTAGENA	Art Unit 3754	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 April 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-3*.
   Claim(s) withdrawn from consideration: *4-7*.

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: _____.

/M. C./
Examiner, Art Unit 3754

Continuation of 3. NOTE: The pull chord affixed to the pull tab of the sealing element would require further consideration and search .

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Patent No. 7,379,487 :
Issue Date: May 27, 2008 :
Application No. 11/057,539 : NOTICE
Filed: February 14, 2005 :
Attorney Docket No. 6592-1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MAILED

NOV 03 2010

OFFICE OF PETITIONS

EDWARD J. PETRUS
3413 SPANISH OAK DR.
AUSTIN TX 78731

In re Application of	:	
Edward J. Petrus	:	
Application No. 11/057671	:	ON APPLICATION FOR
Filed: 02/15/2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No.	:	
COMPOSITION FOR THE TREATMENT	:	
AND PREVENTION OF ENDOTHELIAL	:	
DYSFUNCTION	:	

This is in response to the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*," filed on June 22, 2010, which is treated as a petition under 37 C.F.R. §1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased by from 214 days to 910 days. Applicants request this correction on the basis that the patent will take in excess of three years to issue.

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).

---

1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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KONRAD RAYNES & VICTOR, LLP.
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

MAILED
JAN 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Andrew G. HOURSELT	:	
Application No. 11/057,812	:	ON PETITION
Filed: February 14, 2005	:	
Attorney Docket No. TUC9-2004-0218-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 April 27, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 July 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2432 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO IL 60606

MAILED
SEP 15 2010
OFFICE OF PETITIONS

In re Application of
Douglas Mennie
Application No. 11/057,825
Filed: February 14, 2005
Attorney Dkt. No. 247171-000300USD1
For: METHOD AND APPARATUS FOR DISCRIMINATING AND COUNTING DOCUMENTS

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed January 25, 2010. This application is properly treated under 37 CFR 1.705(b). Applicant requests that the determination of patent term adjustment be corrected from one hundred eighty-four (184) days to one thousand fifteen (1,015) days.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §

1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On October 23, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 184 days. The instant application for patent term adjustment was timely filed on January 25, 2010.

Applicants contend that the reduction pursuant to 37 CFR 1.704(c)(7) should be 13 days, instead of 156 days as calculated by the Office.

A review of the application history confirms a period of reduction of 13 days should have been entered based on 37 CFR 1.704(c)(7). 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

A supplemental amendment was filed on December 11, 2007. A reply, which corrected the omission, was filed December 11, 2007. As such a reduction of 13 days beginning on November 29, 2007 the day after the date the reply having an omission was filed and ending on the date the reply or other paper correcting the omission was filed on December 11, 2007 is required.

Applicant delay at the time of the mailing of the Notice of Allowance is 136 (61 + 13 + 32 + 30) days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is three hundred twenty-seven (327) 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

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11057825 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11057825

Application Filing Date	02/14/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	463
A Delays	463	PTO Manual Adjustment	143
B Delays	0	Applicant Delay (APPL)	279
C Delays	0	Total PTA (days)	327

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
60	09/15/2010		P028	Adjustment of PTA Calculation by PTO	143		0
50	10/23/2009		MN/=.	Mail Notice of Allowance			0
49	10/22/2009		IREV	Issue Revision Completed			0
48	10/22/2009		DVER	Document Verification			0
47	10/22/2009		N/E.	Notice of Allowance Data Verification Completed			0
46	10/22/2009		DOCK	Case Docketed to Examiner in GAU			0
45	10/22/2009		CNTA	Notice of Allowability			0
44	08/21/2009		FWDX	Date Forwarded to Examiner			0
43	06/23/2009	05/24/2009	A...	Response after Non-Final Action		30	41
42	06/23/2009		XT/G	Request for Extension of Time - Granted			0
41	02/24/2009		MCTNF	Mail Non-Final Rejection			0
40	02/19/2009		CTNF	Non-Final Rejection			0
39	01/28/2009		FWDX	Date Forwarded to Examiner			0
38	01/26/2009	12/25/2008	A.NE	Amendment after Final Rejection		32	36
37	01/26/2009		XT/G	Request for Extension of Time - Granted			0
36	09/25/2008	09/02/2008	MCTFR	Mail Final Rejection (PTOL - 326)	23		32
35	09/02/2008		CTFR	Final Rejection			0
33	06/06/2008		FWDX	Date Forwarded to Examiner			0
32	05/02/2008	11/28/2007	A...	Response after Non-Final Action		156	27
31	04/04/2008		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
30	01/16/2008		FWDX	Date Forwarded to Examiner			0
28	12/15/2007		FWDX	Date Forwarded to Examiner			0
29	12/11/2007		SA..	Supplemental Response			0
27.1	11/28/2007		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
27	11/28/2007	09/28/2007	A...	Response after Non-Final Action		61	22
26	11/28/2007		XT/G	Request for Extension of Time - Granted			0
34	10/29/2007		IDSC	Information Disclosure Statement considered			0
25	10/29/2007		RCAP	Reference capture on IDS			0
24	10/29/2007		EIDS	Electronic Information Disclosure Statement			0
23	10/29/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
22	06/28/2007	04/14/2006	MCTNF	Mail Non-Final Rejection	440		21
21	06/21/2007		CTNF	Non-Final Rejection			0
19	06/11/2007		DOCK	Case Docketed to Examiner in GAU			0
18	01/25/2007		DOCK	Case Docketed to Examiner in GAU			0
17	10/06/2006		DOCK	Case Docketed to Examiner in GAU			0
16	09/27/2006		DOCK	Case Docketed to Examiner in GAU			0
15	06/09/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
10	06/09/2006		DOCK	Case Docketed to Examiner in GAU			0
9	06/16/2005		WROIPE	Application Return from OIPE			0
8	06/16/2005		COMP	Application Is Now Complete			0
7	06/16/2005		ROIPE	Application Return TO OIPE			0
6	06/16/2005		OIPE	Application Dispatched from OIPE			0
5	06/16/2005		COMP	Application Is Now Complete			0
20	04/13/2005		IDSC	Information Disclosure Statement considered			0
14	04/13/2005		RCAP	Reference capture on IDS			0
13.7	04/13/2005		M844	Information Disclosure Statement (IDS) Filed			0
13	04/13/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
4	04/07/2005		L128	Cleared by L&R (LARS)			0
3	03/04/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	02/26/2005		SCAN	IFW Scan & PACR Auto Security Review			0
12	02/14/2005		C614	New or Additional Drawing Filed			0
11	02/14/2005		A.PE	Preliminary Amendment			0
1	02/14/2005		IEXX	Initial Exam Team nn			0

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Paper No.

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,796,696	:	
Hansen et al.	:	DECISION ON
Issue Date: September 14, 2010	:	REQUEST FOR
Application No. 11/057,842	:	RECONSIDERATION OF
Filed: February 15, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 58268.00410	:	

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 § 1.705(d))," filed October 25, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred and forty-three (843) days to eight hundred and forty-four (844)days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 14, 2010, the above-identified application matured into US Patent No. 7,796,696 with a patent term adjustment of 843 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentee requests recalculation of the patent term adjustment to include a 377-day period of adjustment pursuant to 37 C.F.R.

§ 1.703(b).[1] Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 377 days.

The period of adjustment of 731 days of examination delay is not in dispute.

The period of reduction of 204 days of Applicant delay is not in dispute.

The 60-day period of overlap between the examination delay and the B-delay is not in dispute.

The sole item that is in dispute is when the RCE-cutoff should commence. The Office maintains that the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, and therefore the over three year period begins on February 16, 2008 *and ends on February 25, 2009, the day before the first RCE was filed*, which amounts to 376 days. See U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 843 days.

Patentee argues that the day on which the RCE was filed should be included in the period of B-delay. As such, Patentee argues that the over three period begins on February 16, 2008 and ends on February 26, 2009, the day on which the first RCE was filed, which amounts to 377[2] days, which results in a patent term adjustment of 844[3] days.

The Office holds that the day on which the RCE was filed 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:

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[1] A Request for Continued Examination (RCE) was filed 377 days after the application was filed.
[2] Petition, page 2.
[3] Id.

> (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 (emphasis added) and ending on the date the patent was issued;

It follows that the proper manner of calculating the RCE-cutoff is to terminate the over three-year period on the day before the RCE was filed, since 37 C.F.R. § 1.703(b)(1) expressly states that the day on which the RCE was filed is not included in the over three-year period.

Accordingly, at issuance, the Office properly entered 376 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 843 days:

	731 days of examination delay
+	376 days attributable to the Office taking in excess of 3 years to issue the patent
–	60 days of overlap
–	204 days of Applicant delay.

In view thereof, no adjustment to the patent term will be made.

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,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

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[4] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[5] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[6] (571) 273-8300: please note this is a central facsimile number.
[7] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[8]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[8] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7115841
Issue Date: October 3,2006
Application No. 11057965
Filed: February 14,2005
Attorney Docket No. 2119-3-14

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 17,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 17,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7115841	2006-10-03	11057965	2005-02-14	2119-3-14

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

● The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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	/Darren Zilinsky/	Date (YYYY-MM-DD)	2011-05-17
Name	DARREN ZILINSKY		
Enter Reel and Frame Number		Remove	
Reel Number	016775	Frame Number	0256
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

Decision Date : November 2,2011

In re Application of :

Tetsuo Tomita

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11057990

Filed : 15-Feb-2005

Attorney Docket No : 5251-008-US01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed November 2,2011 , 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 2617 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	11057990
Filing Date	15-Feb-2005
First Named Inventor	Tetsuo Tomita
Art Unit	2617
Examiner Name	NAM HUYNH
Attorney Docket Number	5251-008-US01
Title	PACKET TRANSFERRING/TRANSMITTING METHOD AND MOBILE COMMUNICATION SYSTEM

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	/Chadwick Jackson/
Name	Chadwick Jackson
Registration Number	46495

UNITED STATES 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. 7190452
Issue Date: March 13,2007
Application No. 11058045
Filed: February 14,2005
Attorney Docket No. 2119-3-13

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 17,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 17,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7190452	2007-03-13	11058045	2005-02-14	2119-3-13

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Darren Zilinsky/	Date (YYYY-MM-DD)	2011-05-17
Name	DARREN ZILINSKY		
Enter Reel and Frame Number		Remove	
Reel Number	016775	Frame Number	0221
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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-2-11

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 11058115 Patent No.: 7509051

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: _____

Ha nguyen
SPE

2829
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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Benedict et al.	:	
Application No. 11/058,134	:	ON APPLICATION FOR
Filed: February 14, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. : 23239-576	:	
(ARC-576)	:	
Title: APTAMER THERAPEUTICS	:	
USEFUL IN THE TREATMENT OF	:	
COMPLEMENT-RELATED DISORDERS	:	

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b), filed July 15, 2010. Applicant disputes a single reduction period, and has noted that the removal of this period of reduction will not change the total patent term adjustment as of the initial determination of patent term adjustment.[1]

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **DISMISSED**.

Applicant is given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

On April 21, 2010, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 0 days. The present request for reconsideration filed July 15, 2010 was timely filed, as Office records show that the issue fee was submitted concurrently therewith. See § 1.705(b). Applicant asserts that the reduction of 80 days that is associated with the filing of a supplemental response was improperly assessed, and that the reduction should total 0 days. At issue is the presence of the statement contained within 37 C.F.R. § 1.704(d) in the

[1] Petition, page 1.

Information Disclosure Statement (IDS) submitted on October 9, 2009.

Applicant's assertion is inaccurate.

Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply after a reply has been filed is a failure to engage in reasonable efforts to conclude prosecution, such that:

> "the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed."

However, pursuant to 37 CFR § 1.704(d):

> "[a] paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that *each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement* (emphasis added)."

A non-final Office action was mailed on February 26, 2009, a response was received on July 21, 2009, and an IDS was received 80 days later on October 9, 2009. Consequently, an 80-day reduction was assessed, pursuant to 37 CFR § 1.704(c)(8).

Applicant asserts that the reduction was improper, since "the Supplemental Information Disclosure Statement filed on October 9, 2009…included a statement under Section 1.704(d)."[2]

The aforementioned IDS has been reviewed, and it is noted that <u>the statement contained therein is not the exact statement required by 37 C.F.R. § 1.704(d)</u>.[3] As such, the supplemental IDS did not contain the proper statement, the submission of the same constitutes a failure to engage in reasonable efforts to conclude prosecution, and the 80-day reduction was properly assessed.

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[2] <u>Id</u>.

[3] *Compare* the language contained in 37 C.F.R. § 1.704(d) that has been emphasized in italics above with that contained in the second paragraph on the first page of the statement of facts submitted concurrently with the October 9, 2009 IDS.

In view thereof, the patent term adjustment of 0 (285 minus 494) days indicated in the "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," is correct.

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) will be charged to Deposit Account No. 50-0311 in due course. No additional fees are required.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6]

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 may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[7]

Anthony Knight
Director
Office of Petitions

---

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300 - please note this is a central facsimile number.
7 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.

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): 11/058,373	Patent Number (if applicable):
First Named Inventor: Imahashi et al.	Title of Invention: POLMER ELECTROLYTE FUEL CELL POWER GENERATION SYSTEM ...

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 /Alan E. Schiavelli/	Date 6/15/11
Name (Print/Typed) Alan E. Schiavelli	Practitioner Registration Number 32,087

***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 _____ forms are submitted.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Imahashi et al.	:	
Application No. 11/058,373	:	DECISION ON PETITION
Filed: February 16, 2005	:	
Attorney Docket No. 50044767X00	:	

This is a decision on the request filed June 15, 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 January 20, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1726 for re-mailing the Office action of January 20, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 18, 2012

In re Application of :

John Babich

Application No : 11058394

Filed : 14-Feb-2005

Attorney Docket No : 346715-0558 MIP-006CIP2US

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 18, 2012

The request is **APPROVED.**

The request was signed by Michel Morency (registration no. 50183) on behalf of all attorneys/agents associated with Customer Number 48329 . All attorneys/agents associated with Cusotmer Number 48329 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	Mr. John Garvey
Name2	
Address 1	K&L Gates
Address 2	One Lincoln Street
City	Boston
State	MA
Postal Code	02111
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	11058394
Filing Date	14-Feb-2005
First Named Inventor	John Babich
Art Unit	1618
Examiner Name	DAMERON JONES
Attorney Docket Number	346715-0558 MIP-006CIP2US
Title	Technetium-and rhenium-bis(heteroaryl) complexes, and methods of use thereof

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 48329

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	Mr. John Garvey
Address	K&L Gates One Lincoln Street
City	Boston
State	MA
Postal Code	02111
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Michel Morency/
Name	Michel Morency
Registration Number	50183

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
EDWARD K.Y. JUNG, ET AL.	:	
Application No. 11/058.399	:	DECISION ON PETITION
Filed: February 15, 2005	:	TO WITHDRAW
Attorney Docket No. **QQ1-0111US**	:	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**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71* or, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

A courtesy copy of this decision is being mailed to the address on the request. However, 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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LEE & HAYE, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

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

MS. SANDRA SWAIN
SYBRON DENTAL SPECIALITIES, INC.
1717 WEST COLLINS AVENUE
ORANGE CA 92867

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of
Cornelis H. PAMEIJER et al.
Application No. 11/058,534
Patent No. 7,128,573
Filed: February 15, 2005
Attorney Docket No. 96400

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 patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

The 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: **WOOD, HERRON & EVANS, L. L. P.**
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

SEP 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Han Jung, et al.	:	
Application No. 11/058,630	:	DECISION GRANTING PETITION
Filed: February 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0465-0738PUS5	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 22, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2891 for processing of the request amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 08/02/2010

Applicant	: Lucern K. Ma	: DECISION ON REQUEST FOR
Patent Number	: 7656788	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/058,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **672** 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)
7,114,705	2006-10-03	11/058,761	2005-02-16	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Anthony P. Gangemi/	Date (YYYY-MM-DD)	2011-08-02
Name	Anthony P. Gangemi	Registration Number	42565

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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P.O. Box 1450
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In re Patent No. 7114705
Issue Date: October 3,2006
Application No. 11058761
Filed: February 16,2005
Attorney Docket No. 948P011706-US (PAR)

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 2,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 2,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

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JAN 19 2011

OFFICE OF PETITIONS

PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

In re Patent No. 7485422	: DECISION ON REQUEST
Waldman et al.	: FOR
Issue Date: 02/03/2009	: RECONSIDERATION OF
Application Number: 11/058778	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/16/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
100051.11021	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 2, 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 seven hundred twenty-three (723) days. The petition is treated as a petition requesting that the term of the above-identified patent is extended or adjusted by seven hundred (700) 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 days (700) days is **GRANTED to the extent indicated herein**.

As to the "B" delay, the period is the period beginning on February 17, 2008, 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 February 3, 2009, the date the application issued as a patent, or 353 days. However, the 24 day period of adjustment for Office delay, from September 16, 2008, the day after the date four months after a reply to a non-final Office was filed, until the mailing of the notice of allowance, overlaps with the "B" delay period.

The patent term adjustment at the time of issuance of the patent is 700 (449 days of Office delay + 353 days of over three years delay – 24 overlapping days – 78 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 **(700)** 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 : 7,485,422 B2

DATED : **Feb. 3, 2009** **DRAFT**

INVENTOR(S) : Waldman 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 371 days.

Delete the phrase "by 371 days" and insert – by 700 days--

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Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Rhoads, et al.	:	
Application No. 11/058,917	:	ON APPLICATION FOR
Filed: February 15, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. **098888-1866**	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment for Patent Application under 37 CFR 1.705(b)" filed December 6, 2011. Applicants submit that the patent term adjustment is one thousand, three hundred and sixty-nine (1,369) days, not one thousand ninety (1,090) 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 and overlap considerations.

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 February 23, 2010.

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
Attorney Advisor
Office of Petitions

COCX scanning

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/23/11

TO SPE OF : ART UNIT 2442

SUBJECT : Request for Certificate of Correction for Appl. No.: 11058956 Patent No.: 7412510

CofC mailroom date: 11/14/11

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: _____

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2451

Art Unit

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JUN 28 2011
OFFICE OF PETITIONS

THE WEBB LAW FIRM, P.C.
ONE GATEWAY CENTER
420 FT. DUQUESNE BLVD, SUITE 1200
PITTSBURGH PA 15222

In re Patent No. 7,296,924 :
Issue Date: November 20, 2007 :
Application No.:11/059,224 : NOTICE
Filed: February 16, 2005 :
Attorney Docket No.: 4507-050070 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed May 19, 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 change of status to a large entity has been entered and made of record.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

CC: PIERRE VARINEAU
ADVANCED ANALYTICAL TECHNOLOGIES, INC.
2711 SOUTH LOOP DRIVE
SUITE 4150
AMES, IA 50010

UNITED STATES 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
FEB 17 2011
OFFICE OF PETITIONS

In re Application of	:	
DELUCA et al.	:	
Application No. 11/059,313	:	ON APPLICATION FOR
Filed: 02/16/2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 032026-0854	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed January 14, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1789 days, not 983 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 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 correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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]

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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.

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) 272-3211.

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: 02/07/11

Patent No. : 7771120 B2
Ser. No. : 11/059,521
Inventor(s) : **Kagohara , et al.**
Issued : **August 10, 2010**
Title : Plain bearing for internal combustion engines
Docket No. : **KAGOHARA=8**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

Browdy and Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington DC 20006

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

ROBERT L. MCDOWELL
1170 JACKSON HEIGHTS DRIVE
WEBSTER, NY 14580

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of

Eugene A. Larson, et al.
Application No. 11/059,836
Filed: February 17, 2005
Attorney Docket No. CK&L-01-US-CIP

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 10, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from applicant's representative that he is in possession of proof of applicant Eugene A. Larson's age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3739 for action on the merits commensurate with this decision.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Application of :
Ernest J. Burger et al :
Application No. 11/059,892 :
Filed: February 17, 2005 :
Attorney Docket No. END920040151US1

ON PETITION

This is a decision on the petition, filed August 25, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 26, 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 2195 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

MAILED
MAR 09 2012
OFFICE OF PETITIONS

In re Application of	:	
James F. Dempsey	:	
Application No. 11/059914	:	
Filing or 371(c) Date: 02/17/2005	:	ON PETITION
Attorney Docket Number:	:	
67223714.001102	:	

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE VON HELLENS LAW FIRM, LTD.
C. ROBERT CON HELLENS
7330 N. 16TH STREET
SUITE C 201
PHOENIX, AZ 85020

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of
George M. Engle
Application No. 11/059,981
Filed: February 17, 2005
Attorney Docket No. 7051-A-1 RvH

DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed October 27, 2010, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the final Office action of April 1, 2010, which set a three (3) month shortened statutory period for reply.

Petitioner states that a timely reply was filed via EFS Web on September 28, 2010, which included the following papers: an amendment, a three month extension of time and payment for a RCE. A review of the record indicates that the response is in the file.

37 CFR 1.114(a) states:

> 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. (Emphasis added)

As petitioner submitted the fee (with an indication that the fee was for a RCE) and submission on September 28, 2010, a proper RCE request under 37 CFR 1.114 was filed. Accordingly, the holding of abandonment for failure to timely file a reply to the final Office action of April 1, 2010 is hereby **withdrawn** and the application **restored to pending status**.

Furthermore, in view of the above decision, the petition under 37 CFR 1.137(a) is unnecessary. Accordingly, the $270 petition fee submitted with the petition on October 27, 2010 is unnecessary; petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to 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 1716 for appropriate action in the normal course of business on the RCE request received on September 28, 2010.

/dab/
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

Barbara E. Johnson, Esq.
555 Grant Street, Suite 323
Pittsburg PA 15219

MAILED
NOV 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Valerie Frankard et al.	:	
Application No. 11/060,029	:	NOTICE
Filed: February 17, 2005	:	
Attorney Docket No. **4559-045800**	:	

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) 272-2783.

/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
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,849,619	:
Issue Date: December 14, 2010	: DECISION ON PETITION
Application No. 11/060,033	: UNDER 37 CFR 1.78(a)(3)
Filed: February 16, 2005	:
Attorney Docket No. KM2225.001DV2	:

This is a decision on the petition filed August 15, 2011, under 37 CFR 1.78(a)(3) and 35 U.S.C. §120, to accept an unintentionally delayed claim, for the benefit of a prior-filed non-provisional application (Application No. 10/101,219), filed by way of a certificate of correction filed concurrently herewith.

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.

Application no. 11/060,033 which was filed after November 29, 2000, matured into Patent No. 7,849,619 on December 14, 2010. The claim for the benefit of priority to a prior-filed nonprovisional application was 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).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in a certificate of correction, 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 above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner's deposit account no. 11-1410 has been charged in the amount of $100 for the certificate of correction fee. Petitioner's credit card has been charged in the amount of $1410 for the petition fee.

This application is being forwarded to the Certificates of Corrections branch for an issuance of a certificate of correction noting the priority claim to prior filed application 10/101/219 filed March 18, 2002, which matured into Patent No. 7,204,425 on April 17, 2007.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. Any questions regarding the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Stephen B. Davis
Bristol-Myers Squibb Company
Patent Department
PO Box 4000
Princeton, NJ 08543-4000

MAILED
NOV 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,479,496	:
Batt et al.	: DECISION UPON REMAND AND
Issue Date: January 20, 2009	: RECONSIDERATION OF
Application No. 11/060,246	: PATENT TERM ADJUSTMENT
Filed: February 17, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 10137 NP	: TO ISSUE CERTIFICATE OF
Title: Substituted Spiro	: CORRECTION
Azabicyclics as Modulators of	:
Chemokine Receptor Activity	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred eighty-eight (888) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred eighty-eight (888) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,479,496

DATED : **January 20, 2009** **DRAFT**

INVENTOR(S) : Batt 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 550 days

Delete the phrase "by 550 days" and insert – by 888 days--

Day : Tuesday
Date: 11/30/2010

PALM INTRANET

Time: 10:31:33

PTA Calculations for Application: 11/060246			
Application Filing Date:	02/17/2005	PTO Delay (PTO):	550
Issue Date of Patent:	01/20/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	888
PTO Delay Adjustment:	338		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	11/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	338		
49.5	12/29/2008	PTA 36 MONTHS			
49	01/20/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
48	12/22/2008	EXPORT TO FINAL DATA CAPTURE			
47	12/19/2008	FINISHED INITIAL DATA CAPTURE			
46	12/19/2008	DISPATCH TO FDC			
45	12/03/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	12/01/2008	ISSUE FEE PAYMENT VERIFIED			
43	12/01/2008	ISSUE FEE PAYMENT RECEIVED			
42	09/15/2008	EXPORT TO INITIAL DATA CAPTURE			
40	09/10/2008	MAIL NOTICE OF ALLOWANCE			
39	09/10/2008	ISSUE REVISION COMPLETED			
38	09/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	09/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	09/10/2008	DOCUMENT VERIFICATION			
35	09/09/2008	EXAMINER'S AMENDMENT COMMUNICATION			
34	09/09/2008	NOTICE OF ALLOWABILITY			
33	08/27/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	07/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
30	07/10/2008	DATE FORWARDED TO EXAMINER			
29	06/18/2008	RESPONSE AFTER NON-FINAL ACTION			
28	06/04/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			

27	06/02/2008	MISCELLANEOUS ACTION WITH SSP			
26	05/13/2008	DATE FORWARDED TO EXAMINER			
25	04/21/2008	RESPONSE AFTER NON-FINAL ACTION			
24	01/24/2008	MAIL NON-FINAL REJECTION			
23	01/22/2008	NON-FINAL REJECTION			
22	11/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	11/10/2007	DATE FORWARDED TO EXAMINER			
18	11/07/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
17	10/19/2007	MAIL RESTRICTION REQUIREMENT	550		-1
16	10/17/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
15	11/21/2005	REFERENCE CAPTURE ON IDS			
14.7	11/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	08/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	08/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	06/01/2005	APPLICATION DISPATCHED FROM OIPE			
9	06/01/2005	APPLICATION IS NOW COMPLETE			
8	05/25/2005	ADDITIONAL APPLICATION FILING FEES			
7	05/25/2005	SMALL ENTITY STATEMENT (37 CFR 1.27)			
6	05/25/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	03/23/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	03/17/2005	CLEARED BY OIPE CSR			
2	03/14/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/17/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101102

DATE : November 02, 2010

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction on Patent No.: 8/10/10

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:

/JUSTINE R YU/
Supervisory Patent Examiner.Art Unit 3771

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,261,126 :
Issue Date: August 28, 2007 :
Application No. 11/060,311 :
Filed: February 18, 2005 :
Patentee(s) Peter James Jeromson et al :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed October 6, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: James A. Duggan
MacMillan, Sobanski & Todd, LLC
720 Water Street
One Maritime Plaza, 5th Floor
Toledo, OH 43604

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

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NOV 29 2011
OFFICE OF PETITIONS

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
Hyeon MYEONG et al.	:	ON PETITION
Application No. 11/060,494	:	
Filed: February 18, 2005	:	
Atty. Docket No.: 1793.1657		

This is a decision on the petition filed November 11, 2011, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed March 24, 2011 (Office action), which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed October 21, 2011.

In the petition filed November 11, 2011, Petitioner asserts that the Office action was not received.

In the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not, in fact, received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file

jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

As the instant petition satisfies the indicated requirements, the holding of abandonment is withdrawn and the application is restored to pending status.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to the Technology Center Art Unit 3664 for consideration of the Response included with the 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

MAILED
AUG 17 2011
OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of	:	
Bruce W. RANDALL et al.	:	ON PETITION
Application No. 11/060,638	:	
Filed: February 16, 2005	:	
Atty. Docket No 8017-81405-US		

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 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 November 23, 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) was obtained. The application became abandoned February 24, 2011. A Notice of Abandonment was mailed June 21, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a Notice of Appeal (and appeal fee), (2) a petition fee of $1620, and (3) a statement of unintentional delay. The Notice of Appeal is accepted as having been unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 2161 for further processing.

Ramesh Krishnamurthy
for Anthony Knight
Director
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Application of
Michael Ross Tinsley
Application No. 11/060,792
Filed: February 18, 2005
Attorney Docket No: 640401-1010

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

A Final Office Action was mailed March 19, 2008 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned June 20, 2008. Accordingly, a Notice of Abandonment was mailed September 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that a continuation application under 37 CFR 1.53(b) was filed September 19, 2008 in response to the Final Office Action, however an extension of time was not filed in the instant application for the purposes of making the response timely and thus the instant application became abandoned. Additionally, for revival, the instant petition includes a the petition fee of $810 and an adequate statement of unintentional delay.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.12/234,207 filed September 19, 2008, pursuant to the provisions of 37 CFR 1.53(b).

This matter is being referred to Technology Center 3754 for processing of the continuation application filed September 19, 2008.

Telephone inquiries related 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

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.
11/060,867	02/17/2005	Michael Tainsky	0788.00067	5764

48924 7590 10/19/2010
KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS, MI 48334

EXAMINER
REDDIG, PETER J

ART UNIT	PAPER NUMBER
1642	

MAIL DATE	DELIVERY MODE
10/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11060867	2/17/2005	TAINSKY ET AL.	0788.00067

EXAMINER
Misook Yu

ART UNIT	PAPER
1643	20100927

DATE MAILED:

KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS, MI 48334

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This is in response to applicant's petition to accept color drawings/photographs filed on September 9, 2010.

All requirements under 37 CFR 1.84(a)(2) are met. Accordingly, petition is Granted.

Petition GRANTED.

/Misook Yu/
Supervisory Patent Examiner, Art Unit 1643

Misook Yu
SPE
Art Unit: 1643

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.
11/060,867	02/17/2005	Michael Tainsky	0788.00067	5764

48924 7590 06/08/2011
KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY.
SUITE 410
FARMINGTON HILLS, MI 48334-3179

EXAMINER
REDDIG, PETER J

ART UNIT	PAPER NUMBER
1642	

MAIL DATE	DELIVERY MODE
06/08/2011	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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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June 7, 2011

KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY.
SUITE 410
FARMINGTON HILLS MI 48334-3179

In re Application of	:	
Michael Tainsky, et al	:	**DECISION ON PETITION**
Application No. 11060867	:	
Filed: 02/17/2005	:	
Attorney Docket No. **0788.00067**	:	

This is a decision on the Petitions to accept color drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 30, 2005, March 29, 2010, and September 9, 2010.

Although the June 30, 2005 Petition to accept colored drawings was filed, drawing Figures 1a – 13d submitted on June 30, 2005 were not filed in color. Replacement color drawing Figures 7a – 9b submitted on March 29, 2010 were replaced by color drawing Figures 7a – 9b submitted on September 9, 2010. Although the examiner approved the September 9, 2010 color drawings for content, the September 9, 2010 Petition to accept color drawings was not accompanied by three sets of color drawings.

The petitions are **DISMISSED.**

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, (One (1) set for EFW filings, 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 patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petitions did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. 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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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of
George Kalogridis Davis, et al.
Application No. 11/060,880
Filed: February 18, 2005
Attorney Docket No. 130060-1000

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Thomas C. Wright on behalf of all attorneys of record who are associated with customer No. 32914. All attorneys/agents associated with the Customer Number 32914 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 13, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: KALOGRIDIS INTERNATIONAL, LTD.
ATTN: MR MIKE CUNNINGHAM, PRESIDENT
4819 MAPLE AVENUE
DALLAS, TX 75219

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/060,880	02/18/2005	George Kalogridis Davis	130060-1000

CONFIRMATION NO. 2129

POWER OF ATTORNEY NOTICE

32914
GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

OC000000042898355

Date Mailed: 08/04/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/13/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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BOND SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE, NY 13202-1355

MAILED
OCT 19 2011
OFFICE OF PETITIONS

In re Application of :
George Kalogridis Davis et al :
Application No. 11/060,880 :
Filed: February 18, 2005 :
Attorney Docket No. 650P009 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 13, 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465 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 1798 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed October 10, 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

May 3, 2011

B. Joe Kim
300 South Wacker Drive
Suite 2500
Chicago, IL 60606

Patent No.	: 7,903,210 B2
Ser. No.	: 11/060,962
Inventor(s)	: Norio Sugiura, et al.
Issued	: March 8, 2011
Docket No.	: 3408.72386
Title	: **REFLECTION TYPE LIQUID CRYSTAL DISPLAY DEVICE AND MANUFACTURING METHOD THEREOF**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patrick G. Burns, Esq.
GREER, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Drive
Chicago IL 60606

MAILED

AUG 10 2011

OFFICE OF PETITIONS

Patent No. 7,903,210	:	
Issue Date: March 8, 2011	:	
Application No. 11/060,962	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 3408.72386	:	

This is a decision on the petition filed July 25, 2011, a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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)
6989123	2006-01-24	11061037	2005-02-18	1008-02-D

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	/Poongunran Muthukumaran/	Date (YYYY-MM-DD)	2011-04-24
Name	Poongunran Muthukumaran	Registration Number	58862

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. 6989123
Issue Date: January 24,2006
Application No. 11061037
Filed: February 18,2005
Attorney Docket No. 59482-DIV (46775)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 24,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MUNCY, GEISSLER, OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX, VA 22033

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Rene Hemann Monsieur
Application No. 11/061,053
Filed: February 19, 2005
Attorney Docket No. 1030/0190PUS1

DECISION ON PETITION

This is a decision on the petition, filed March 22, 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 timely pay the issue and publication fees on or before January 6, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 6, 2009.

Petitioner asserts that the Notice dated October 6, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of October 6, 2009. In this regard, the Office action in question was mailed to an incorrect address of record. Office records indicate that there was a revocation of power of attorney and request to change correspondence address filed June 17, 2009 was processed on June 26, 2009. The request indicated that the new correspondence address should be mailed to Muncy, Grissler, Olds & Lowe, PLLC at 4000 Legato Road, Suite 310, Fairfax, VA 22033. Accordingly, as the Office action and the Notice of Abandonment was mailed to wrong address, the Notice of Abandonment mailed October 6, 2009 is hereby **vacated** and **the holding of abandonment withdrawn**.

Since petitioner has already satisfied the requirements listed in the Notice of Allowance by providing payment for the Issue fee and publication fee, this application is being forwarded to the Office of Data Management for further processing in accordance with this decision on petition.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 14 ,2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No. 11/061054 patent No.:7777707

C of C mailroom date:--04-14-11

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2629

Art Unit

and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110510

DATE : May 10, 2011

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,720312

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:

Examiner approved the certificate of corrections because the corrections do not affect the scope of the invention.

/BHAVESH MEHTA/
Supervisory Patent Examiner.Art Unit 2624

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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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of	:	
Ali Noorbakhsh, et al.	:	
Application No. 11/061,151	:	DECISION GRANTING PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. GENSP128	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 18, 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 should be directed to Terri Johnson at (571) 272-2991.

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.

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **BEYER LAW GROUP LLP**
P.O. BOX 1687
CUPERTINO, CA 95015-1687

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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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Ali Noorbakhsh, et al.	:	
Application No. 11/061,165	:	DECISION GRANTING PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. GENSP184	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 18, 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 should be directed to Terri Johnson at (571) 272-2991.

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.

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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.*

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **BEYER LAW GROUP LLP**
P.O. BOX 1687
CUPERTINO, CA 95015-1687

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)
7,270,449	2007-09-18	11/061,264	2005-02-17	UWK-6020-UT

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	/Daniel M. Chambers/	Date (YYYY-MM-DD)	2011-09-30
Name	Daniel M. Chambers	Registration Number	34561

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. 7270449
Issue Date: September 18,2007
Application No. 11061264
Filed: February 17,2005
Attorney Docket No. 023727-2401

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 30,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
EMERYVILLE CA 94662-8097

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Hiese et al.	:	
Application No. 11/061,386	:	ON APPLICATION FOR
Filed: 02/18/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
22045.0004	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b)," filed on October 13, 2010. Applicants request reconsideration of the patent term adjustment to include the period of delay for failure of the Office to issue the patent within 3 years of the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Patent No. 7,694,881	:	DECISION ON REQUEST FOR
Jung et al.	:	RECONSIDERATION OF
Issue Date: April 13, 2010	:	PATENT TERM ADJUSTMENT AND
Application No. 11/061,387	:	NOTICE OF INTENT TO ISSUE
Filed: February 18, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No. **0404-003-010F -000000**	:	

This is a decision on the petition filed on June 14, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and fifteen (1,115) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**. The term of the above-identified patent is extended or adjusted by **nine hundred and ninety-three (993) days**.

It is noted that patentees failed to account for the filing of the notice of appeal on December 19, 2008. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 270 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, December 19, 2008, and ending on the date the Office action under 35 U.S.C. 132 was filed, September 14, 2009. Thus, the B delay is 515 days (785 - 270).

No consideration will be given to patentees' assertion that 86 days of adjustment to the patent term should be entered for the alleged failure of the Office to respond within four months to reply filed February 20, 2009. Likewise, no consideration is given to patentees assertion that the reduction to the patent term adjustment under 37 CFR 1.704 for applicant delay should be 267 days, rather than 155 days. Further to this point, PALM records indicate that the issue fee payment was received in the Office on February 25, 2010. No 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 February 25, 2010. Accordingly, relative to patentees' assertions of adjustments and reductions to the patent term entered prior to the issuance of the patent, it is appropriate to dismiss these arguments as untimely filed under § 1.705(b).

Accordingly, the patent term adjustment is 993 days (633 days of A delay + 515 days of B delay - 0 days of overlap - 155 days of applicant delay).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term

of the above-identified patent is extended or adjusted by **nine hundred and ninety-three (993) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

cc:
Dale Cook
Searete LLC
1756 114th Ave. SE
Suite 110
Bellevue, WA 98004

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,694,881 B2

DATED : Apr. 13, 2010

INVENTOR(S) : Jung 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 (994) days

Delete the phrase "by 994 days" and insert – by 993 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Harvey & Associates, P.C.
321 84th Avenue NE
Norman OK 73026

MAILED
JAN 31 2012
OFFICE OF PETITIONS

In re Patent No. 6,976,602 :
Issue Date: December 20, 2005 :
Application No. 11/061,676 : REQUEST FOR INFORMATION
Filed: February 18, 2005 :
Attorney Docket No. 000309.01 :

This is a decision on the petition, filed December 20, 2011, under 37 CFR 1.378(b) to accept an unintentionally delayed payment of a maintenance fee in an expired patent.

The petition is **dismissed.**

Petitioner should submit the requested information within TWO MONTHS of the mailing date of this letter. Extensions of time may not be obtained. No additional fee is due for a response to the instant request for information. The response to this Requirement for Information should include a cover letter entitled "Response to Request for Information." The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

(1) the required maintenance fee set forth in §1.20 (e)-(g);

(2) the surcharge set forth in § 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The merits of the petition will not be addressed because the petition is not accompanied by the required $700.00 surcharge and the 3 ½ year maintenance fee of $565.00. The petition references a check for $1,265.00. However, no check was received.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Harvey & Associates, P.C.
321 84th Avenue NE
Norman OK 73026

MAILED
APR 04 2012
OFFICE OF PETITIONS

In re Patent No. 6,976,602 :
Issue Date: December 20, 2005 :
Application No. 11/061,676 : ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. 000309.01 :

This is a decision on the petition, filed March 30, 2012, under 37 CFR 1.378(b) to accept the unavoidably delayed payment of the 3 ½ year maintenance fee in an expired patent.

The petition is **dismissed.**

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400. The petition for reconsideration should include an exhaustive attempt to provide the lacking item noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued December 20, 2005. The 3 ½ year maintenance fee could have been paid from December 20, 2008 through June 20, 2009, or with a surcharge during the period from June 21, 2009 through December 20, 2009. The 3 ½ year maintenance fee was not timely paid. Accordingly, the patent expired on December 21, 2009.

Statute and Regulation

37 CFR 1.378(a) provides that the Director may accept the payment of any maintenance fee due on a patent based on an expiration of the patent, if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional. The appropriate surcharge set forth in § 1.20(i) must be paid as a condition of accepting payment of the maintenance fee. The surcharges set at 37 CFR 1.20(i) are established pursuant to 35 U.S.C. 41(c) and, therefore, are not subject to small entity provisions of 35 U.S.C. 41(h). No separate petition fee is required for this petition. If the Director accepts payment of Further correspondence with respect to this matter should be addressed as follows:

the maintenance fee upon petition, the patent shall be considered as not having expired but will be subject to the intervening rights and provisions of 35 U.S.C. 41(c)(2).

The patent statute at 35 U.S.C. 41(c)(1) provides as follows:

"The Director may accept the payment of any maintenance fee required by subsection (b) of this section... at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable."

The statute's promulgating rule, 37 CFR 1.378(b), provides that any petition to accept the delayed payment of a maintenance fee must include the following:

(1) the required maintenance fee set forth in 37 CFR 1.20(e) - (g);

(2) the surcharge set forth in 37 CFR 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Such as statement must be verified if made by a person not registered to practice before the Patent and Trademark Office. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

Opinion

In the instant petition, patentee James R. Maxwell, through counsel, asserts that the delay in payment of the 3 ½ year maintenance fee was unavoidable because his former attorney, James T. Robinson, failed to inform him on the obligation to pay maintenance fees, failed to allow the U.S. Patent Trademark Office to contact him directly by changing the correspondence address, and failed to notify him when the maintenance fee was due (Statement p. 12).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Petitions for the delayed payment of maintenance fees under 35 U.S.C. 41(c)(1) are treated under the same standard as petitions for revival of abandoned applications under 35 U.S.C. 133 because both statutory provisions use the same language, i.e., "unavoidable" delay. Ray v. Leyman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff'd*, Rydeen v. Quigg, 748 F. Supp. 900, 16

USPQ2d 1876 (D.D.C. 1990), *aff'd*, 937 F.2d 623 (Fed. Cir. 1991) (table), *cert. denied*, 502 U.S. 1075 (1992). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable as follows:

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 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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887); *see also* Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-168 (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). The requirement in 35 U.S.C. 133 for a showing of unavoidable delay requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable (or expiration of the patent as it applies to 35 U.S.C. 41(c)(1)), but also a showing of unavoidable delay from the time an applicant becomes aware of the abandonment of the application until the filing of a petition to revive (or a petition under 37 CFR 1.378(b) to reinstate the patent under 35 U.S.C. 41(c)(1)). *See* In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990). 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, 316-317, 5 USPQ2d 1130, 1131-1132 (N.D. Ind. 1987).

35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133. The Letters Patent contains a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. Accordingly, a reasonably prudent patentee would have inquired to see if his/her patent was subject to maintenance fees.

A reasonably prudent person in the exercise of due care and diligence will take steps to ensure the timely payment of maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. Thus, it follows that an adequate showing of unavoidable delay in payment of a maintenance fee, within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3), requires a showing of the steps taken to ensure the timely payment of the maintenance fees for the patent. *Id.* Where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee.

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, a patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. *See* Patent No. 4,409,763, *supra*; *see also* "Final Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office's mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, it is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and/or the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Rydeen v. Quigg, 748 F. supp. at 900.

The record fails to show that patentee or his then-representative took adequate steps to ensure timely payment of the maintenance fee. In re Patent No. 4,461,759, 16 USPQ2d 1883, 1884 (Comm'r Pat. 1990).

Petitioner must demonstrate, via a documented showing, that despite reasonable care by the patentee and/or the patentee's former attorney to implement reasonable steps to ensure the timely payment of the maintenance fee, the maintenance fee was nevertheless, unavoidably not paid.

It is incumbent upon petitioner to demonstrate, via a documented showing, that his former representative had docketed this patent for the first maintenance fee payment in (a) reliable tracking system(s). It is clear from the petition that patentee was not monitoring the due date for the first maintenance fee payment.

The Office requires a statement from patentee's former attorney describing the arrangement between patentee and himself with respect to maintenance fee payments. Was patentee's former attorney tracking the maintenance fee due dates for the patent? Did patentee's former attorney attempt to timely contact patentee regarding the maintenance fee due date? Please provide copies of any letters sent.

Because petitioner was represented by a registered practitioner, the Office must rely on the actions or inactions of the duly authorized and voluntarily chosen representative of the applicants, and the applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). If the attorney made any errors, petitioner is bound by such errors.[1]

---

[1] *See* California Med. Products v. Technol Med. Products, 921 F. Supp. 1219, 1259 (D. Del. 1995) (citing Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981) (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962))).

An attorney must act reasonably and prudently.

If [the] attorney somehow breach[es] his duty of care to plaintiff, then plaintiff may have certain other remedies available to him against his attorney. He cannot, however, ask the court to overlook [the attorney's] action or inaction with regard to the patent application. He hired the [attorney] to represent him. [The attorney's] actions must be imputed to him.[2]

Petitioner is reminded that the U.S. Patent and Trademark Office is not the proper forum for resolving disputes between applicants and their representatives. *See* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Petitioner is advised that delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay. In Re Kim, 12 U.S.P.Q.2d 1595 (Comm'r Pat. 1988). Delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. 1.378(b). See Ray, at 610, 34 U.S.P.Q.2d at 1789.

The record fails to disclose that the patentee or patentee's former representative took reasonable steps to ensure timely payment of the maintenance fee. The record indicates that no steps were taken by patentee to ensure timely payment of the 3 ½ year maintenance fee. Patentee's former attorney has not provided a statement of facts describing his responsibilities and actions with respect to docketing and payment of maintenance fees for the patent.

In short, petitioner has not demonstrated, via a documented showing, that there was a reliable tracking system in place to monitor the due dates of maintenance fees and that a responsible party had docketed this patent in that system. Evidence should be submitted which demonstrates that despite reasonable care by the patentee and/or the patentee's former agent to implement reasonable steps to ensure the timely payment of the maintenance fees, the maintenance fee was nevertheless, unavoidably not paid.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $1,265.00 fee submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

---

[2] Haines v. Quigg, 673 F. Supp. 314,317, 5 U.S.P.Q. 2d (BNA) 1130 (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d734, 82 S. Ct. 1386 (1962) ("Petitioner voluntarily chose his attorney as his representative in the action and he cannot now avoid the consequences of the acts or omissions of this freely selected agent... Each party is deemed bound by the acts of his lawyer-agent and is considered to have 'notice of all facts, notice of which can be charged upon the attorney.'"(emphasis added); Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983)("Courts hesitate to punish a client for its lawyers gross negligence, especially when the lawyer affirmatively misled the client" but "if the client freely chooses counsel, it should be bound to counsel's actions.")' see also Wei v. State of Hawaii, 763 F. 2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983)). See also Smith v. Diamond, 209 U.S.P.Q. (BNA) 1091 (D.D.C. 1981).

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCCARTER & ENGLISH, LLP STAMFORD
CANTERBURY GREEN
201 BROAD STREET, 9TH FLOOR
STAMFORD CT 06901

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	
John Dennis BOBYN, et al	:	
Application No. 11/061,745	:	NOTICE
Filed: February 22, 2005	:	
Attorney Docket No. 16564-2US JR/AS	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 3, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EUSTATHIOS VASSILIOU
12 SOUTH TOWNVIEW LANE
NEWARK DE 19711

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Application of	:	
Fleydervish, et al.	:	
Application No. 11/061,845	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. AN19D1	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 26, 2011.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Petitioner has not submitted the petition fee, and as such, the petition will not be considered on the merits. The petition fee is required for the filing, and not merely the grant, of the petition.

In addition, the Revocation and Power of Attorney, submitted with the instant petition, has not been entered. The Revocation and Power of Attorney was signed by the assignee, but a Rule 3.73(b) statement was not included. A copy of this decision is being forwarded to the address listed on the Revocation and Power of Attorney. However, all future correspondence will be addressed to the above address of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Termax Corporation
Attn: Patent Department
1155 Rose
Lake Zurich, IL 60047

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Udo SCHUTZ	:	
Application No. 11/061,851	:	DECISION ON PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.137(a)
Attorney Docket No. **PR-71**	:	

This is a decision on the renewed petition under the unavoidable provisions of 37 CFR 1.137(a), filed September 14, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure s to timely pay the issue and publication fees on or before April 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 30, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 1, 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).

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. § 151 and 37 CFR 1.137(a). *See* MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

In this regard, petitioner asserts that the credit card company implemented a "random computer generated system which periodically withholds payments for seven to ten days." However, petitioner has not provided evidence that the party responsible for payment of the fees has an unavoidable delay. The withholding of funds by a third party does not constitute and unavoidable delay.

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 $1640 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 Monica A. Graves at (571) 272-7253.

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

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH,15TH FLOOR
NEW YORK, NY 10016

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Udo SCHUTZ	:	
Application No. 11/061,851	:	DECISION ON PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **05/01/2009**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 April 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 30, 2009. Accordingly, the date of abandonment of this application is May 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 the Office of Data Management for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 104233.60344US	
Application Number: 11/061,854	Filing Date (or 371(b) or (f) Date): February 17, 2005
Patent Number: 7,659,017	Issue Date: February 9, 2010
First Named Inventor: Pui Yan Joyce YIP	
Title: Drying Method for Fuel cell Stacks	

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 Gary R Edwards	Date 08/09/2010
Name (Print/Typed) Gary R. Edwards	Registration Number 31824

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/18/2010

Applicant	: Pui Yan Joyce Yip	: DECISION ON REQUEST FOR
Patent Number	: 7659017	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/061,854	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1362** 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 : 10/28/10

TO SPE OF : ART UNIT 2863 Dunn Drew (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/061865 Patent No.: 7197409

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: In column 2, the changes should be to lines 7, 19 and 28 instead of to 7, 18 and 27 respectively. In column 29, the change should be to line 25 rather than line 16.

/Jonathan C. Teixeira Moffat/ 2857

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
JUN 16 2011
OFFICE OF PETITIONS

COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York, NY 10176

In re Application of Tom Alheidt, et. al. Application No. 11/061,912 Filed: February 18, 2005 Attorney Docket No. 5434-24	: : : : : :	DECISION DISMISSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 28, 2011, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventors[1].

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of David M. Fortunato appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **dismissed**.

The present petition requires:

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),

(2) a proper oath or declaration executed by the available joint inventor(s),

(3) the fee of $400 as specified in 37 CFR § 1.17(h), and

(4) the last known address of the omitted inventor(s).

Applicant lack item (1) set forth above.

[1] Once an application containing a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

As to item (1), the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Vu Phan, such that the declaration can be accepted under 37 CFR 1.47(a).

Petitioner states that two attempts were made to deliver application papers to Vu Phan on November 12, 2010 and February 10, 2011; however, on both deliveries, the packages were left at the front door.

Since the details for tracking numbers 1Z0585460143873054 and 1Z0585460160166821 show that the packages were left at Vu Phani's front door, and does not show that Mr. Phan signed for the packages in question, the assumption alone can be that Mr. Phan never received the packages or they were intercepted by someone other than Mr. Phan[2]. Therefore, petitioner has not demonstrated that all efforts were expended in trying to locate the non-signing inventor Phan.

In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventor Vu's personnel records and, if so, what does inspection of the records reveal as to an address of the nearest living relative? What does inspection of the phone directories for the current mailing address of the non-signing inventors reveal? Did any other co-workers/joint inventors keep in touch with them? At the very least, petitioner should again mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Vu's address, <u>return receipt requested</u>, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. <u>If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail</u>, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration. When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted. Whenever an omitted inventor

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[2] Petitioner should provide evidence that shows that packages were mailed unsuccessfully to Mr. Phan's last known address or provide evidence that shows that Mr. Phan actually received and signed for the packages, in which he ignored and therefore refused to sign the declaration.

gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Since present petition requires a $400 petition fee, the deficiency of $270 will be charged to petitioner's deposit, as authorized.

A courtesy copy of this decision is being mailed to the address given in the present petition. Thereafter, all future communications from the Office regarding this application will be mailed solely to the address of record unless otherwise instructed.

Rule 47 applicant is given **TWO (2) MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

cc: David M. Fortunato
Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, NJ 074 17

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York, NY 10176

MAILED

OCT 20 2011

OFFICE OF PETITIONS

In re Application of Tom Alheidt, et. al. Application No. 11/061,912 Filed: February 18, 2005 Attorney Docket No. 5434-24	: : : : : :	DECISION DISMISSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 16, 2011, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventors.

The present petition requires:

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),

(2) a proper oath or declaration executed by the available joint inventor(s),

(3) the fee of $400 as specified in 37 CFR § 1.17(h), and

(4) the last known address of the omitted inventor(s).

Since the present petition complies with all the above requirements, the petition under 37 CFR 1.183 is **granted**.

This application file is being referred to the Office of Data Management for issuance into a patent.

Telephone inquiries regarding this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474
M/S 3999
DALLAS TX 75265

MAILED
JAN 26 2011
OFFICE OF PETITIONS

In re Application of :
Pritchett et al. : DECISION ON PETITION
Application No. 11/061,947 :
Filed: February 18, 2005 :
Atty Docket No. TI-31004.1 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 17, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed September 17, 2009. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective December 18, 2009. A courtesy Notice of Abandonment was mailed on April 23, 2010.

The petition includes the required reply, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2611 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed December 17, 2010.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

William M. Hobby, III
157 E. New England Avenue, #375
Winter Park, FL 32824

MAILED

OCT 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Henry Happel, et. al.	:	
Application No. 11/061,971	:	DECISION ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. 05-5895	:	

This is a decision on the petition under 37 CFR 1.137(a), filed July 19, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

This application was held abandoned for failure to reply to the nonfinal Office action mailed December 16, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 23, 2006.

Petitioner asserts that the Office action dated December 16, 2005 was not received.

The showing required to establish nonreceipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A)[1].

[1] *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 present petition does not fully comply with requirements (1) and (2) above.

It is noted that (1), petitioner failed to describe the system used for recording an Office action received at the correspondence address of record with the United States Patent and Trademark Office (USPTO); and (2), petitioner failed to state that the Office action was not received at the correspondence address of record, and that a search of the record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. However, since a review of the written record indicates an irregularity in the mailing of the Office action, there is a strong presumption that the Office action was not properly mailed to the practitioner at the address provided in the Declaration filed on February 17, 2005.

A review of the written record discloses that the Declaration filed on February 17, 2005 contained a Power of Attorney to William Hobby and all correspondence was to be mailed to the City and State of Winter Park, Florida. However, when petitioner supplied the Utility Patent Application Transmittal on February 17, 2005, he listed the City and State for the correspondence address as Orlando, Florida; and thus, all communications from the USPTO were mailed to Orlando, Florida instead of Winter Park, Florida.

In this case, since the Declaration filed on February 17, 2005 did contain a proper Power of Attorney to Mr. Hobby, using the City and State of Winter Park, Florida, all communications mailed from the USPTO should have been mailed to that address. Therefore, the present petition is **granted** and Office records have been corrected to reflect Winter Park, Florida as the City and State for the above-identified application.

In view of this decision, the $270 petition fee is unnecessary and petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application file is being is being referred to Technology Center Art Unit 1724 for re-mailing of the Office action dated December 16, 2005.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

UNITED STATES 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. 7071415
Issue Date: July 4,2006
Application No. 11062030
Filed: February 18,2005
Attorney Docket No. SHOT-10611

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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)
7,071,415	2006-07-04	11/062,030	2005-02-18	1001.031

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	/Kenneth C. Booth/	Date (YYYY-MM-DD)	2010-09-02
Name	Kenneth C. Booth	Registration Number	42342

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/28/2010

TO SPE OF : ART UNIT 3651 Crawford Gene (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11062120 Patent No.: 7346427

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

GENE O CRAWFORD
SUPERVISORY PATENT EXAMINER

SPE

3651
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120406

DATE : April 9, 2012

TO SPE OF : ART UNIT 3627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,546,256

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:

The changes are OK to be entered.

SPE: /F. Ryan Zeender/ **Art Unit** 3627

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.
11/062,199	02/18/2005	James Michael McHale JR.	128346.66501	6610

7590 03/23/2011
Diamond Innovations
6325 Huntley Road
Worthington, OH 43229

EXAMINER
PARVINI, PEGAH

ART UNIT	PAPER NUMBER
1731	

MAIL DATE	DELIVERY MODE
03/23/2011	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

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Alexandria, VA 22313-1450
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March 22, 2011

Diamond Innovations
6325 Huntley Road
Worthington OH 43229

Re Application of	
MCHALE, JAMES MICHAEL JR., Et. Al	: **DECISION ON PETITION**
Application No: **11/062199**	: **ACCEPTANCE OF COLOR**
Filed: **02/18/2005**	: **DRAWINGS**
Attorney Docket No: **128346.66501**	:

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) February 18, 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 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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MAILED

SEP 08 2010

OFFICE OF PETITIONS

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

In re Patent No. 7,582,770	: DECISION ON APPLICATION FOR
Issued: September 1, 2009	: PATENT TERM ADJUSTMENT and
Application No. 11/062,305	: NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: February 18, 2005	: CERTIFICATE OF CORRECTION
Dkt. No.: 13-0127	:

This is a decision on the petition filed on May 17, 2010 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1124 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The instant application matured into U.S. Patent No. 7,582,770 on September 1, 2009. The patent issued with a patent term adjustment of 492 days. Patentees assert that the patent is entitled to 1124, including 560 days pursuant to 37 CFR 1.703(b) and a total of 67 days of applicant delay. Patentees contest the reduction of 111 days in connection with the request under 37 CFR 1.48 filed March 20, 2009.

The patent is entitled to an overall adjustment of 1015 days.

The patent is entitled to an adjustment under 37 CFR 1.703(a) of 669 days (631 days under § 1.703(a)(1) and 38 days under § 1.703(a)(6)).

The patent is entitled to 561 days of adjustment pursuant to 37 CFR 1.703(b). The period of adjustment commenced February 19, 2008 and ended September 1, 2009.

To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, 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. See, 37 CFR 1.703(f). The period of adjustment of 38 days under 37 CFR 1.703(a)(6) overlaps with the period of adjustment pursuant to 37 CFR 1.703(b) and is thus not included in the overall calculation of adjustment.

Patentees acknowledge the applicant reduction 57 days under 37 CFR 1.704(b) and the applicant reduction of nine days pursuant to 37 CFR 1.704(c)(10).

Patentees contest the reduction of 111 days under 37 CFR 1.704(c)(10) in connection with the request under 37 CFR 1.48 filed March 20, 2009. Patentees argue that the period of reduction in this regard is one day because the "PTO entered the corresponding Application Data sheet the same day thus, a 1day reduction."

Patentees' arguments have been carefully considered but are not persuasive. A review of the record does not establish that, in accordance with 37 CFR 1.704(c)(10), an Office action or notice in response to the amendment under § 1.312 or such other paper was mailed in response to the request submitted March 20, 2009. See, 37 CFR 1.704(c)(10)(i). Therefore, the period of reduction is controlled by 37 CFR 1.704(c)(10)(ii). Accordingly, the reduction of 111 days, having been reconsidered, will not be withdrawn.

In view thereof, the patent is entitled to an overall adjustment of 1015 days (669 days under § 1.703(a) + 561 days under § 1.703(b) – 38 days pursuant to § 1.703(f) – 177 days of applicant delay under 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The 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 1015 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,770

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Tsantrizos, 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 492 days

Delete the phrase "by 492 days" and insert – by 1015 days--

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,582,770 :
Issued: September 1, 2009 : DECISION ON PATENT TERM
Application No. 11/062,305 :
Filed: February 18, 2005 :
Atty. Dkt. No.: 13-0127 :

This is a decision on the response filed October 4, 2010 to the decision on patent term adjustment under to 37 CFR 1.705(d). This matter is deemed a timely filed petition for reconsideration of decision on petition within the meaning of 37 CFR 1.181(f).

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,582,770 on September 1, 2009. The patent issued with a patent term adjustment of 492 days. An application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). A decision was mailed October 4, 2010. In response to the decision mailed October 4, 2010, patentee contests the period of reduction of 111 days accorded pursuant to 37 CFR 1.704(c)(10).

Petitioner's arguments have been carefully considered, but are not persuasive. The period of reduction pursuant to 37 CFR 1.704(c)(10) was properly calculated at 111 days. The petition to correction inventorship is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704. The petition to correct inventorship was filed post allowance at the time of submission of the issue fee. Accordingly, a reduction pursuant to 37 CFR 1.704(c)(10) was properly assessed.

35 USC 154(b)(2)(C) states:

(i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

(ii) With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.

(iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

The provisions of 35 U.S.C. 154(b)(2)(C) are implemented at 37 CFR 1.704 and specifies certain circumstances as constituting a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

37 CFR 1.704(c)(10) 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; or
> (ii) Four months;

The phrase "lesser of ...or [f]our months" is to provide a four-month cap for a reduction under 37 CFR 1.704(c)(10) if the Office takes longer than four months to issue an Office action or notice in response to the amendment under 37 CFR 1.312 or other paper.

Applicants filed a post allowance petition to correction inventorship under 37 CFR 1.48 on March 20, 2009. The maximum period of reduction of 111 days was properly calculated pursuant to 37 CFR 1.704(c)(10)(ii) as no Office action or notice was mailed in response to the petition to correction inventorship.

In view thereof, the reduction of 111 days pursuant to 37 CFR 1.704(c)(10)(ii) will not be withdrawn.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

This file is being directed to the Certificate of Corrections Branch for issuance of the certificate of mailing previously approved on decision mailed September 7, 2010.

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

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COMMISSIONER FOR PATENTS
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Michael P. Morris
Boehringer Ingelheim USA CORPORATION
900 Ridgeway Road
PO Box 368
Ridgefield CT 06877-0368

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APR 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,582,770	:
Tsantrizos et al.	: DECISION UPON REMAND AND
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/062,305	: PATENT TERM ADJUSTMENT
Filed: February 18, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 13-0127	: TO ISSUE CERTIFICATE OF
Title: Viral Polymerase	: CORRECTION
Inhibitors	:

The Office hereby vacates the decision mailed 3-22-2011 which was decided in response the request for reconsideration of patent term adjustment under 37 CFR 1.705(d). This decision is mailed in response to the court order dated June 10, 2010 which ordered the Office to decide the patent term adjustment in accordance with Wyeth v. Kappos court decision and any other appropriate adjustments disputed by patentee.

The Office will treat the applicant delay under 37 CFR 1.704(c)(10) as from the period beginning on 3/20/2009 and ending on 4/1/2009, the date of the mailing of the response to amendment. Accordingly, the reduction is limited to 13 days. Since the overall applicant delay after notice of allowance was 120 days, the patentee is granted an additional 107 days of PTA.

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand one hundred and twenty-two (1122) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred and twenty-two (1122) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,770

DATED : September 1, 2009 **DRAFT**

INVENTOR(S) : Tsantrizos 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 1015 days

Delete the phrase "by 1015 days" and insert – by 1122 days--

PALM INTRANET

Day : Friday
Date: 4/8/2011
Time: 16:41:47

PTA Calculations for Application: 11/062305			
Application Filing Date:	02/18/2005	PTO Delay (PTO):	669
Issue Date of Patent:	09/01/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	177
Post-Issue Petitions:	0	Total PTA (days):	1122
PTO Delay Adjustment:	630		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
101	04/08/2011	ADJUSTMENT OF PTA CALCULATION BY PTO	107		
94	09/07/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
93	09/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	523		
80.5	08/12/2009	PTA 36 MONTHS			
80	09/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	38		69
79	07/24/2009	EXPORT TO FINAL DATA CAPTURE			
78	07/23/2009	DISPATCH TO FDC			
77	07/21/2009	EMAIL NOTIFICATION			
76	07/17/2009	MAIL-PETITION DECISION - DISMISSED			
75	07/16/2009	PETITION DECISION - DISMISSED			
74	05/15/2009	FINISHED INITIAL DATA CAPTURE			
73	03/20/2009	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
72	03/31/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
71	04/01/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
70	03/28/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
69	03/25/2009	ISSUE FEE PAYMENT VERIFIED			
68	03/20/2009	PETITION ENTERED			
67	03/24/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		9	71
66	03/25/2009	ISSUE FEE PAYMENT RECEIVED			
65	03/20/2009	MISCELLANEOUS INCOMING LETTER		111	
64	03/02/2009	MAIL EXAMINER'S AMENDMENT			
63	02/27/2009	EXAMINER'S AMENDMENT COMMUNICATION			

62	02/23/2009	WORKFLOW - QUERY REQUEST - FINISH			
61	02/19/2009	PRINTER RUSH- NO MAILING			
60	01/28/2009	PUBS CASE REMAND TO TC			
59	01/04/2009	WORKFLOW - QUERY REQUEST - BEGIN			
58	01/02/2009	EXPORT TO INITIAL DATA CAPTURE			
56	12/31/2008	MAIL NOTICE OF ALLOWANCE			
55	12/24/2008	ISSUE REVISION COMPLETED			
54	12/24/2008	DOCUMENT VERIFICATION			
53	12/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	12/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
51	12/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
50	12/22/2008	ALLOWABILITY NOTICE			
49	12/18/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	10/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	10/29/2008	DATE FORWARDED TO EXAMINER			
44	10/02/2008	RESPONSE AFTER NON-FINAL ACTION		57	38
43	10/02/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	10/02/2008	REFERENCE CAPTURE ON IDS			
41	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	06/24/2008	CASE DOCKETED TO EXAMINER IN GAU			
38	05/06/2008	MAIL NON-FINAL REJECTION			
37	04/28/2008	NON-FINAL REJECTION			
29	02/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	01/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	03/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/27/2008	REFERENCE CAPTURE ON IDS			
25	03/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	23
24	04/02/2008	DATE FORWARDED TO EXAMINER			
23	03/27/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
22	03/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

21	03/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/10/2008	REFERENCE CAPTURE ON IDS			
19	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/09/2008	MAIL RESTRICTION REQUIREMENT	631		-1
16	01/08/2008	RESTRICTION/ELECTION REQUIREMENT			
15	12/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	09/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	09/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	02/18/2005	REFERENCE CAPTURE ON IDS			
11.7	02/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/15/2005	APPLICATION DISPATCHED FROM OIPE			
9	06/15/2005	APPLICATION IS NOW COMPLETE			
8	06/08/2005	ADDITIONAL APPLICATION FILING FEES			
7	06/08/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	04/29/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/21/2005	CLEARED BY L&R (LARS)			
3	03/09/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	03/07/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/18/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 126595.00201	
Application Number: 11/062377	Filing Date (or 371(b) or (f) Date): February 22, 2005
Patent Number: 7,666,829	Issue Date: February 23, 2010
First Named Inventor: Thomas Mitts	
Title: COMPOSITIONS FOR ELASTOGENESIS AND CONNECTIVE TISSUE TREATMENT	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date August 2, 2010
Name (Print/Typed) N. Nicole Endejann	Registration Number 50,229

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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Pepper Hamilton LLP
One Mellon Center
500 Grant Street, 50th Floor
Pittsburgh, PA 15219

Mail Date: 08/12/2010

Applicant	: Thomas Mitts	: DECISION ON REQUEST FOR
Patent Number	: 7666829	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/062,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **491** 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 01/20/2011

Applicant	: Tetsuya Ooyauchi	: DECISION ON REQUEST FOR
Patent Number	: 7587820	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/062,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1183** 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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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

MAILED

FEB 13 2012

OFFICE OF PETITIONS

In re Application of :
Jenkins, et al. :
Application No. 11/062,884 : ON PETITION
Filed: February 22, 2005 :
Attorney Docket No. **KAT021**

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 26, 2012.

The petition is **granted**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed July 5, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on October 6, 2007. A Notice of Abandonment was mailed on January 28, 2008.

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 3752 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date March 7, 2012

In re Application of Hui Liu

Application No. 11062890

Filed: 22-Feb-2005

Attorney Docket No. 68144/P012US/

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), March 7, 2012 , 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 outstanding final Office action. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

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 an amendment and/or response, Request for Continued Examination, and the filing fee required under 37 CFR 1.17(e); (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the Request for Continued Examination and the amendment and/or response are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Technology Center.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11062890
Filing Date	22-Feb-2005
First Named Inventor	Hui Liu
Attorney Docket Number	68144/P012US/10501450
Title	Intelligent demodulation systems and methods in an OFDMA multicell network

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

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.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ○ Amendment and response are attached

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
- ◉ RCE Request, Submission, and Fee are attached

Notice of Appeal

○ I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on

○ Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒ 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	/Amedeo F. Ferraro/
Name	Amedeo F. Ferraro
Registration Number	37129

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Paper No.

LARSON NEWMAN & ABEL, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Nevoret et al.	:	
Application No. 11/062,900	:	ON APPLICATION FOR
Filed: Feb. 22, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
1035-D4263-A	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 CFR §1.705, filed on October 7, 2010, which is treated as a request for reconsideration under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased from 429 days to at least 1072 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The request is **GRANTED TO THE EXTENT INDICATED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 673 days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **GRANTED TO THE EXTENT INDICATED.**

On July 29, 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 429 days (790 days of PTO delay and 361 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants assert, via the table contained in the subject petition, that the 244 and 1 day reductions for applicant delay, respectively, are incorrect, and should be removed.

Applicants are correct, to a point. With respect to the 244 day period of reduction for applicant delay in connection with the filing of the Information Disclosure Statement (IDS) filed on February 26, 2008, the reduction is not warranted. On February 26, 2008, the IDS was filed. On June 20, 2008, the first Office action (restriction requirement) was mailed. As the IDS filed on February 26, 2008, was filed prior to the mailing of the first Office action, the IDS is not a supplemental response. Therefore the 244 day period of delay is not warranted and will be removed.

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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.

[2] PALM Records indicate that the issue fee was paid on October 28, 2010.

With respect to the 1 day period of delay for the filing of a reply on January 2, 2009, three months and 1 day after the mailing of an Office action on October 1, 2008, 35 U.S.C. 154(b)(2)(C)(ii) establishes the standard of reply by applicants to within three months of the date a notice is given or mailed to applicants.[3] The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.[4]

It is undisputed that the reply to the Office action mailed on October 1, 2008 was filed on January 2, 2009, three (3) months and one (1) day after the date the Office action was mailed. In this regard, the timeliness of the reply for purposes of avoiding abandonment is not relevant to the determination of patent term adjustment.[5]

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. Accordingly, applicants' argument on application for removal of the 1 day reduction for applicant delay is not found persuasive.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 673 days (790 days of Office delay less 117 (361 - 244) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment

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[3] See, Comment 11, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56366 (September 18, 2000).

[4] See 37 CFR 1.704(b).

[5] See also, 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56366 (September 18, 2000).

of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Updated PAIR Calculation

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/062,900

Filing or 371(c) Date:	02-22-2005	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	790
A Delays:	790	PTO Manual Adjustments:	244
B Delays:	0	Applicant Delays:	361
C Delays:	0	Total PTA Adjustments:	673

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
127	12-07-2010	Adjustment of PTA Calculation by PTO	244		0
107	07-29-2010	Mail Notice of Allowance			0
106	07-28-2010	Issue Revision Completed			0
105	07-28-2010	Document Verification			0
104	07-28-2010	Notice of Allowance Data Verification Completed			0
103	07-28-2010	Case Docketed to Examiner in GAU			0
102	07-28-2010	Examiner's Amendment Communication			0
101	07-23-2010	Notice of Allowability			0
97	07-16-2010	Information Disclosure Statement considered			0
94	07-16-2010	Information Disclosure Statement (IDS) Filed		0	92
93	07-19-2010	Date Forwarded to Examiner			0
92	07-16-2010	Amendment after Final Rejection			0
91	07-16-2010	Information Disclosure Statement (IDS) Filed			0
90	05-07-2010	Mail Final Rejection (PTOL - 326)			0
89	05-06-2010	Final Rejection			0
88	03-17-2010	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
87	02-26-2010	Date Forwarded to Examiner			0
86	01-29-2010	Response after Non-Final Action		31	84
85	01-29-2010	Request for Extension of Time - Granted			0
84	09-29-2009	Mail Non-Final Rejection			0
83	09-25-2009	Non-Final Rejection			0
82	06-04-2009	Reference capture on IDS			0
81	06-04-2009	Information Disclosure Statement (IDS) Filed			0
80	07-28-2009	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
79	07-23-2009	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
78	07-24-2009	Date Forwarded to Examiner			0
77	07-23-2009	Amendment Submitted/Entered with Filing of CPA/RCE			0
76	07-24-2009	Date Forwarded to Examiner			0
75	07-23-2009	Request for Continued Examination (RCE)		30	65
74	07-24-2009	Disposal for a RCE / CPA / R129			0
73	07-23-2009	Workflow - Request for RCE - Begin			0
72	06-10-2009	Mail Advisory Action (PTOL - 303)			0
71	06-08-2009	Advisory Action (PTOL-303)			0
70	06-04-2009	Information Disclosure Statement considered			0
69	06-04-2009	Information Disclosure Statement (IDS) Filed			0
68	05-28-2009	Date Forwarded to Examiner			0
67	05-26-2009	Amendment after Final Rejection			0
66	02-26-2009	Electronic Information Disclosure Statement		55	58
65	03-23-2009	Mail Final Rejection (PTOL - 326)			0
64	03-19-2009	Final Rejection			0
63	01-02-2009	Information Disclosure Statement considered			0

62	02-26-2009	Information Disclosure Statement considered			0
61	02-26-2009	Information Disclosure Statement (IDS) Filed			0
59	01-22-2009	Date Forwarded to Examiner			0
58	01-02-2009	Response after Non-Final Action		1	55
57	01-02-2009	Electronic Information Disclosure Statement			0
56	01-02-2009	Information Disclosure Statement (IDS) Filed			0
55	10-01-2008	Mail Non-Final Rejection			0
54	09-29-2008	Non-Final Rejection			0
50	02-22-2005	Information Disclosure Statement considered			0
49	01-05-2006	Information Disclosure Statement considered			0
48	09-11-2006	Information Disclosure Statement considered			0
47	12-22-2006	Information Disclosure Statement considered			0
46	06-11-2007	Information Disclosure Statement considered			0
45	07-13-2007	Information Disclosure Statement considered			0
44	02-26-2008	Information Disclosure Statement considered			0
43	06-27-2008	Information Disclosure Statement considered			0
42	08-17-2008	Case Docketed to Examiner in GAU			0
41	08-17-2008	Case Docketed to Examiner in GAU			0
40	07-24-2008	Date Forwarded to Examiner			0
39	06-27-2007	Response to Election / Restriction Filed			0
38	06-27-2008	Electronic Information Disclosure Statement			0
37	06-27-2008	Information Disclosure Statement (IDS) Filed			0
36	06-20-2008	Mail Restriction Requirement	790		-1
35	06-20-2008	Transfer Inquiry to GAU			0
34	06-19-2008	Requirement for Restriction / Election			0
33	04-21-2008	Transfer Inquiry to GAU			0
32	02-26-2008	Electronic Information Disclosure Statement		244	39
31	02-26-2008	Information Disclosure Statement (IDS) Filed			0
30	10-05-2007	Case Docketed to Examiner in GAU			0
29	09-24-2007	Transfer Inquiry to GAU			0
28	07-13-2007	Reference capture on IDS			0
27	07-13-2007	Information Disclosure Statement (IDS) Filed			0
26	07-13-2007	Information Disclosure Statement (IDS) Filed			0
25	06-26-2007	Case Docketed to Examiner in GAU			0
24	06-11-2007	Electronic Information Disclosure Statement			0
23	06-11-2007	Information Disclosure Statement (IDS) Filed			0
22	04-11-2007	Case Docketed to Examiner in GAU			0
21	12-22-2006	Reference capture on IDS			0
20.7	12-22-2006	Information Disclosure Statement (IDS) Filed			0
20	12-22-2006	Information Disclosure Statement (IDS) Filed			0
19	09-11-2006	Reference capture on IDS			0
18.7	09-11-2006	Information Disclosure Statement (IDS) Filed			0
18	09-11-2006	Information Disclosure Statement (IDS) Filed			0
17	01-12-2006	IFW TSS Processing by Tech Center Complete			0
16	01-12-2006	Case Docketed to Examiner in GAU			0
14	01-05-2006	Reference capture on IDS			0
13.7	01-05-2006	Information Disclosure Statement (IDS) Filed			0
13	01-05-2006	Information Disclosure Statement (IDS) Filed			0
12	02-22-2005	Reference capture on IDS			0
11.7	02-22-2005	Information Disclosure Statement (IDS) Filed			0
11	02-22-2005	Information Disclosure Statement (IDS) Filed			0
10	02-22-2005	Preliminary Amendment			0

9	05-26-2005	Application Dispatched from OIPE	0
8	05-26-2005	Application Is Now Complete	0
7	05-17-2005	Payment of additional filing fee/Preexam	0
6	05-17-2005	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	03-17-2005	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	03-07-2005	Cleared by OIPE CSR	0
2	03-02-2005	IFW Scan & PACR Auto Security Review	0
1	02-22-2005	Initial Exam Team nn	0

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5914 WEST COURTYARD DRIVE
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AUSTIN TX 78730

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MAY 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,875,091	: DECISION ON REQUEST
Nevorct et al.	: FOR
Issue Date: 01/25/2011	: RECONSIDERATION OF
Application No. 11/062,900	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/22/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
1035-D4263-A	: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705, filed on March 25, 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 fifty-two (1052) 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 fifty-two (1052) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand fifty-two (1052)** 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 : 7,875,091 B2

DATED : **Jan. 25, 2011** **DRAFT**

INVENTOR(S) : Nevorct 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 499 days.

Delete the phrase "by 499 days" and insert – by 1052 days--

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MARK WHITE
P. O. BOX 391
PELHAM AL 35124

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,073,426	:	
Issue Date: July 11, 2006	:	
Application No. 11/062,908	:	DECISION ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 05, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 11, 2010 for failure to pay the three and one-half maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Carlos Manuel Gomez Duran	:	
Application No. 11/063,236	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. IHIM-020/US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 22, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from a registered practitioner that he has evidence that inventor Carlos Manuel Gomez Duran is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The matter is being referred to the Technology Center Art Unit 3738 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

LARSON NEWMAN & ABEL, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Nevoret et al.	:	
Application No. 11/063,258	:	ON APPLICATION FOR
Filed: Feb. 22, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
1035-D4263-C	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 CFR §1.705, filed on October 7, 2010, which is treated as a request for reconsideration under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased from 673 days to at least 1072 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The request is **DISMISSED**.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **DISMISSED.**

On August 2, 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 673 days (790 days of PTO delay and 117 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants assert, via the table contained in the subject petition, that the 1 day reduction for applicant delay is incorrect and should be removed.

With respect to the 1 day period of reduction for applicant delay for the filing of a reply on January 2, 2009, three months and 1 day after the mailing of an Office action on October 1, 2008, 35 U.S.C. 154(b)(2)(C)(ii) establishes the standard of reply by applicants to within three months of the date a notice is given or mailed to applicants.[3] The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.[4]

It is undisputed that the reply to the Office action mailed on October 1, 2008 was filed on January 2, 2009, three (3) months and one (1) day after the date the Office action was mailed. In this regard, the timeliness of the reply for purposes of avoiding abandonment is not relevant to the determination of patent term adjustment.[5]

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[2] PALM Records indicate that the issue fee was paid on October 28, 2010.

[3] See, Comment 11, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56366 (September 18, 2000).

[4] See 37 CFR 1.704(b).

[5] See also, 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56366 (September 18, 2000).

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. Accordingly, applicants' argument on application for removal of the 1 day reduction for applicant delay is not found persuasive.

In view thereof, no change will be made in the determination of patent term adjustment at the time of the 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 the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte LEE M. AMAITIS *et al*

Application 11/063,311
Technology Center 3700

DECSION ON PETITIONS

This is a decision on the "Petition Under 37 C.F.R. § 1.136(a) and § 1.136(b) for Extension of Time to File Appeal Brief," filed June 8, 2010, ("First Petition"), and "Petition Under 37 C.F.R. § 1.136(b) for Extension of Time to File Appeal Brief," filed August 4, 2010 ("Second Petition"). The First Petition seeks, *inter alia,* an extension of time of two months (until August 8, 2010) under Rule 1.136(b) for filing an appeal brief. The Second Petition seeks an additional extension of time of two months (until October 8, 2010) under Rule 1.136(b) for filing an appeal brief.

See 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On September 29, 2009, Appellants filed a Notice of Appeal and a Pre-Appeal Brief Request for Review.

2. On December 8, 2009, a panel of examiners issued a Notice of Panel Decision from Pre-Appeal Brief Review. The Notice stated that "The application remains under appeal because there is at least one actual issue for appeal." The Notice also reset the time period for filing an appeal brief to one month from the date of the Notice, and stated that "the time period for filing of the appeal brief is extendable under 37 CFR 1.136."

3. The First Petition, filed June 8, 2010, included a request under Rule 1.136(a) that the period for filing the appeal brief be extended for five months until June 8, 2010, providing a total period of six months in which to file the brief. The First Petition also sought an additional extension of two months for filing the brief under Rule 1.136(b).

4. Rule 1.136(b) provides:

> In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute.

5. 35 U.S.C. § 133 specifies:

> 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.

6. The Second Petition seeks an additional two month extension under Rule 1.136(b) for filing the appeal brief.

DISCUSSION

As indicated by the foregoing, extensions of time to respond to Office actions are limited under Rule 1.136(b) to time periods prescribed by statute, and 35 U.S.C. § 133 limits the time period for responding to an Office action

to six months. Thus, the two month extensions sought by each of the First and Second Petitions under Rule 1.136(b) exceed the limit imposed by statute, namely six months from the date of the Notice of Panel Decision from Pre-Appeal Brief Review. The Notice was entered on December 8, 2009, and the six month maximum extension expired on June 8, 2010.

DECISION

In view of the foregoing, the First Petition in respect to the request for an extension of time under Rule 1.136(b), and the Second Petition are DENIED.

James T. Moore
Acting Chief Administrative Patent Judge

Innovation Division
Cantor Fitzgerald, L.P.
110 East 59th Street (6th Floor)
New York, NY 10022

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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of :
Lee M. Amaitis et al :
Application No. 11/063,311 :
Filed: February 21, 2005 :
Attorney Docket No. 04-7136 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 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 September 29, 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 10, 2009. See MPEP 1215.04.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3714 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,060,952	2006-06-13	11/063,370	2005-02-22	18906-637M

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	/Justin King/	Date (YYYY-MM-DD)	2011-09-23
Name	Justin King	Registration Number	50464

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. 7060952
Issue Date: June 13,2006
Application No. 11063370
Filed: February 22,2005
Attorney Docket No. 15294 B (4716 BN)

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,138,642	2006-11-21	11/063,485	2005-02-22	

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	/Dusty Vogelpohl/	Date (YYYY-MM-DD)	2011-05-30
Name	Dusty Vogelpohl	Registration Number	55703

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
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In re Patent No. 7138642
Issue Date: November 21,2006
Application No. 11063485
Filed: February 22,2005
Attorney Docket No. 10206400015

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 30,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Patent No.7,600,057	:	
Yang	:	DECISION FOR REQUEST
Issue Date : October 6, 2009	:	FOR RECONSIDERATION
Application No. 11/063,815	:	OF PATENT TERM
Filed: February 23, 2005	:	ADJUSTMENT
Attorney Docket No. **16358US01**	:	

This is a decision on the "Request for Reconsideration of USPTO Recalculation of Patent Term Adjustment in View of *Wyeth*," filed May 26, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from five hundred and eighty-three (583) days to five hundred and eighty-four (584).

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 October 6, 2009, the above-identified application matured into U.S. Patent No. 7,600,057, with a revised patent term of 433 days. A Request for Recalculation of Patent Term Adjustment in View of Wyeth was filed on March 22, 2010. A decision was mailed on April 26, 2010, indicating that the patent term adjustment had been determined to be five hundred and eighty-three (583) days. The instant request for reconsideration filed May 26, 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), excluding the appeal period, is 151 days and that the patent term adjustment is 584 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 February 24, 2008, and ends on October 22, 2008, the day before the RCE was filed, and is 150 (not 151) days, excluding the period of appeal of 92 days. See 35 U.S.C. 154(b)(1)(B)(i).

In view thereof, the patent term adjustment of 583 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

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.
11/063,943	02/22/2005	Rashida A. Karmali	134.005	3694

7590 04/08/2011

Rashida A. Karmali, PhD
13th Floor
99 Wall Street
New York, NY 10005

EXAMINER
ANDERSON, JAMES D

ART UNIT	PAPER NUMBER
1629	

MAIL DATE	DELIVERY MODE
04/08/2011	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.

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APR 0 8 2011

Rashida A. Karmali, PhD
13th Floor
99 Wall Street
New York NY 10005

In re Application of:
Rashida A. Karmali

Serial No.: 11/063,943

Filed: February 2, 2005

Docket: **134.005**

Title: **METHOD OF INCREASING DRUG ORAL BIOAVAILABILITY AND COMPOSITIONS OF LESS TOXIC OROTATE SALTS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on March 8, 2011 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**. **However, it is noted that the instant application has already made special on the basis of age for an age petition decision of June 27, 2008.**

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

> *Conditions for Examination:* The application must be in condition for examination at the time of filing. This means the application must include the following:
> (A) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (*see* MPEP section 607(I)),
> (B) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (*see* MPEP section 607(II));
> (C) An executed oath or declaration in compliance with 37 CFR 1.63;
> (D) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;
> (E) A title and an abstract in compliance with 37 CFR 1.72;
> (F) Drawings in compliance with 37 CFR 1.84;
> (G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);
> (H) Foreign priority claim under 35 U.S.C. 119(a)–(d) identified in the executed oath or declaration or an application data sheet (if applicable);
> (I) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (*e.g.*, the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is accurate, have been filed in the provisional application) (if applicable);
> (J) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);
> (K) No preliminary amendments present on the filing date of the application; and
> (L) No petition under 37 CFR 1.47 for a non-signing inventor.

4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was no in condition for examination as evidenced by applicants' failure to file this petition in accordance with the rules for accelerated examination and MPEP 708.02 which states "Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age. Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to

August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below. A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a)." In the event applicant is attempting to invoke a green tech petition, proper procedures have not been followed. Please see the OG Notice of Dec 2009 and May 2010 for green tech petitions.

For the above-stated reasons, the petition of March 8, 2011 is **DENIED**.

However, it is noted that the instant application has already made special on the basis of age for an age petition decision of June 27, 2008.

Any inquiry regarding this decision should be directed to Marianne C. Seidel, Quality Assurance Specialist, at (571) 272-0584.

/MC Seidel/
Marianne. C. Seidel, Quality Assurance Specialist
Technology Center 1600

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J C PATENTS
4 VENTURE, SUITE 250
IRVINE CA 92618

MAILED
JAN 3 1 2011
OFFICE OF PETITIONS

Patent No. 7,091,608	:	
Issue Date: August 15, 2006	:	
Application No. 11/064,136	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. JCLA13738	:	

This is a decision on the petition filed August 18, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

The applicant is requesting that the assignee name be deleted from the front page of the patent.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA, PA 19103-6996

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of	:
Donald L. Siegel	: DECISION GRANTING PETITION
Application No. 11/064,174	: UNDER 37 CFR 1.78(a)(3)
Filed: February 22, 2005	:
Attorney Docket No. 538935008DI2	:

This is a decision on the petitions under 37 CFR § 1.78(a)(3), filed July 30, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/848,798, filed May 4, 2001, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR § 1.78(a)(2)(ii). In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(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 above-noted, 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 above-noted, 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 filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §120 and 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 above-noted, prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center Art Unit 1644 for appropriate action on the amendment submitted July 30, 2010, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed 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
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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
11/064,174	02/22/2005	1644	1000	538935008DI2	6	1

CONFIRMATION NO. 8940

CORRECTED FILING RECEIPT

23973
DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA, PA 19103-6996

OC000000044370403

Date Mailed: 11/05/2010

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)

Donald L. Siegel, Hatboro, PA;

Power of Attorney: The patent practitioners associated with Customer Number 23973

Domestic Priority data as claimed by applicant

This application is a DIV of 09/240,274 01/29/1999 PAT 6,255,455
which is a CIP of 08/884,045 06/27/1997 PAT 5,876,925
and claims benefit of 60/081,380 04/10/1998
and claims benefit of 60/028,550 10/11/1996
This application 11/064,174
is a CON of 09/848,798 05/04/2001 PAT 6,858,719
which is a DIV of 09/240,274 01/29/1999 PAT 6,255,455

Foreign Applications

If Required, Foreign Filing License Granted: 07/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/064,174**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Rh(D)-binding proteins and magnetically activated cell sorting method for production thereof

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Stewart Frederick Bryant, et al.	:	
Application No. 11/064,275	:	DECISION GRANTING PETITION
Filed: February 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50325-1055	:	

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 October 26, 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 2471 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the previously filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

IP Patent Docketing
K&L GATES LLP
599 Lexington Avenue
33rd Floor
New York NY 10022-6030

MAILED
APR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
James Barbara	:	DECISION ON PETITION
Application No. 11/064,424	:	
Filed: February 23, 2005	:	
Atty Docket No. BARBARAJB2	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 11, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed June 30, 2008. This Office action set a shortened statutory period for reply of one (1) month, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective July 31, 2008. A courtesy Notice of Abandonment was mailed on February 5, 2009.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. 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.)

Technology Center AU 3633 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the election submitted on petition filed March 11, 2011.

The address set forth on the petition is different from the correspondence address of record for this application. Further, another address associated with attorney Handal is set forth on the amendment filed with the petition. A courtesy copy of this decision is being sent to both the address on the petition and on the amendment.

A review of the record reveals unsuccessful attempts to revoke the previous attorneys and appoint a new attorney and new correspondence address of record. Particularly, as the attorneys associated with the customer number of record did not properly complete their request to withdraw, the address of record remains under their customer number. Further, as attorney Handal is with a new firm, he is no longer an attorney of record under the customer number of the old firm and as such, can file papers in a representative capacity but cannot under his signature revoke the power of attorney or change the correspondence address of record.

All further correspondence will be sent to the correspondence address of record (as set forth above) until a proper change of correspondence address (and/or revocation and new power of attorney) is filed. To facilitate this correction, a power of attorney and change of correspondence address form (PTO/SB/81) is enclosed for completion by the inventor.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/81.

cc: JAMES BARBARA
420 Gulf St.
Milford CT 06460

cc: Handal & Morofsky LLC
501 Kings Highway East
Fairfield, CT 06825

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,974,693	:	
Issued: July 5, 2011	:	
Application No. 11/064,446	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. Q123133	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 7, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

10.19 Memorandum - Certificate of Correction (Cross-Reference to Other Reissues in Family)

DATE: September 12, 2011

TO: Certificates of Correction Branch

FROM: David R. Hudspeth, SPE, Art Unit **2626**

SUBJECT: Request for Certificate of Correction

Please issue a Certificate of Correction in U. S. Letters Patent No. RE 40,731 as specified on the attached Certificate.

/David R. Hudspeth/

SPE Art Unit 2626

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE

Patent No. RE 40,731 E

Patented: Jun. 9, 2009

The present reissue patent issued from an application that is one of a family of divisional reissue applications resulting from Patent No.5,822,720. The present reissue patent has issued without the cross reference to the other reissue application(s) of the family which is required pursuant to 37 CFR **1.177(a)** . Accordingly, insert in the first sentence of the specification as follows:

Notice: More than one reissue application has been filed for the reissue of patent 5,822,720. The reissue applications are 11/064,519, filed 02/24/2005 and now this US Reissued Patent No. RE40,731, and 12/480,556 filed 06/08/2009 which is a continuation application of 11/064,519.

David R. Hudspeth, Supervisory Patent Examiner

Art Unit **2626**

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.
11/064,586	02/24/2005	Koji Miyata	50U6040.01	9591

27774 7590 05/18/2011
MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD, NJ 07090

EXAMINER
NGUYEN, CUONG QUANG

ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
05/18/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

In re Application of Koji Miyata Appl. No.: 11/064,586 Filed: February 24, 2005 For: SHARED CONTACTS FOR MOSFET DEVICES	**PETITION TO DESIGNATE NEW GROUNDS IN AN EXAMINER'S ANSWER** *37 CFR 1.181(a)*

This decision on the petition filed 4/5/2010, requesting the designation of new grounds of rejection in the Examiner's Answer mailed February 3, 2010.

The petition is GRANTED.

A review of the record shows that the grounds of rejection in the final Office action mailed May 26, 2009 differ from those presented in the aforementioned Examiner's Answer in the manner as set forth in appellant's petition. Accordingly, a supplemental Examiner's Answer will be mailed to include a new grounds of rejection designation in accordance with 37 CFR 41.39(a)(2). Appellant is reminded of the requirement to timely reply to the new Examiner's Answer containing new grounds, as set forth in 37 CFR 41.39(b) and MPEP 1207.03(V).

Inquiries concerning this decision should be directed to Lynne Gurley, Supervisory Patent Examiner, at (571) 272-1670.

John Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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RICHARD B. KLAR
145 WILLIS AVENUE
SUITE NO. 6
MINEOLA NY 11501

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Application of :
Mazzilli :
Application No. 11/064,613 :
Filed: February 24, 2005 :
Attorney Docket No. 52RK004 :
For: 360 DEGREE VIDEO CAMERA SYSTEM

ON PETITION

This is a decision on the petition, filed October 24, 2011, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the April 13, 2011 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on July 14, 2011.

Applicant has submitted an amendment in reply to the April 13, 2011 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 13, 2011 non-final Office action, and the $930.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2622 for consideration of the amendment filed on October 24, 2011.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
AUG 27 2010
OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Patent No.7,629,657	:	
Partridge, et al.	:	DECISION FOR REQUEST
Issue Date : December 8, 2009	:	FOR RECONSIDERATION
Application No. 11/064,658	:	OF PATENT TERM
Filed: February 23, 2005	:	ADJUSTMENT
Attorney Docket No.11403/23A	:	

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. The request is properly treated under 37 CFR 1.705(d).

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On December 8, 2009, the above-identified application matured into U.S. Patent No. 7,629,657, with a revised patent term of 0 days. It is noted that the instant patent issued 3 years and 654 days after its filing date. However, § 1.703(b)(1) provides, in pertinent part, that:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning 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 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.

Thus, the filing of a request for continued Examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. In this instance, an RCE was filed on March 5, 2009. Thus, the ability to accumulate any additional patent term adjustment against the three-year pendency provision ended on the day before the date the RCE was filed, March 4, 2009. Thus, only 375 days of patent term adjustment were accumulated pursuant to the three-year pendency provision.

It is noted that patentees failed to account for the filing of the notice of appeal on November 20, 2006. The Office reminds patentees that the period consumed by appellate review, whether

successful or not, is excluded from the calculation of the over three year pendency, or "B delay". See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 228 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, November 20, 2006, and ending on the non-final Office action was mailed, July 5, 2007. Thus, the B delay is 147 days (375– 228). Accordingly, the patent term adjustment is 0 days (0 days of A delay + 147 days of B delay – 0 days of overlap - 284 days of applicant delay).

In view thereof, the patent term adjustment of 0 days indicated in the patent is correct.

The fee required by 37 CFR 1.18(e) is noted. 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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,107,623	2006-09-19	11064660	2005-02-23	2198/1311

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 Szabo/	Date (YYYY-MM-DD)	2010-09-21
Name	Paul Szabo	Registration Number	30429

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. 7107623
Issue Date: September 19,2006
Application No. 11064660
Filed: February 23,2005
Attorney Docket No. 4555-002A

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed September 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 21,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11-23-10**

TO SPE OF : ART UNIT **3771**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11064667** Patent No.: **7621275**

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.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Justine R. Yu/ **3771**

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

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MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application
Frank Bennett et al.
Application No. 11/064,673
Filed: February 24, 2005
Attorney Docket No. IN06135US01

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed September 22, 2011. Applicant requests that the determination of patent term adjustment be corrected from 648 to 1966 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

DATE : 5/27/10 **Paper No.:** —

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/064759 Patent No.: 7668720 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Richemond Dorvil/ /2626/

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

OCT 19 2010

OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

In re Application:	:	
Kari Alitalo et al.	:	
Application No. 11/064,769	:	NOTICE
Filed: February 24, 2005	:	
Attorney Docket No. 28967/35061A2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 7, 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 the Technology Center 1633.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED
SEP 01 2010
OFFICE OF PETITIONS

In re Application of	:	
Blakley et al.	:	
Application No.: 11/064866	:	DECISION ON
Filing or 371(c) Date: 02/24/2005	:	PETITION
Attorney Docket Number: 200406201-1	:	

This is a decision in response to the "Petition for Withdrawal of Abandonment," filed April 14, 2010. The petition is properly treated under 37 C.F.R. 1.181(a).

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 16, 2009. Accordingly, the date of abandonment of this application is March 17, 2010.

Applicant files the present petition and asserts that a timely reply to the Notice was filed on January 20, 2010, using the Certificate of Facsimile provisions of 37 CFR 1.8. In support of this assertion, Applicant files a copy of the reply, and a copy of an Auto-Reply Facsimile Transmission report, acknowledging receipt of one (1) page from petitioner on January 20, 2010.

A review of the copy of the reply filed with the petition reveals that it includes a Certificate of Transmission under 37 CFR 1.8, that the reply was sent on January 20, 2010.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing

or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination

proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), 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 that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicant has complied with the requirements of 37 CFR 1.8(b). A preponderance of the evidence demonstrates that a timely reply to the Notice was filed.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to the Publishing Division for processing into a patent in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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SCHWABE WILLIAMSON & WYATT
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,175,512	:	
Issued: February 13, 2007	:	
Application No. 11/064,903	:	NOTICE
Filed: February 22, 2005	:	
Attorney Docket No.: 108643-151328	:	

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

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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	:	
CHEN, Chia-Tung et al.	:	
Application No. 11/065,056	:	DECISION ON PETITION
Filed: February 25, 2005	:	TO WITHDRAW
Attorney Docket No. **VTX0328-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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TORYS LLP
79 WELLINGTON STREET WEST, SUITE 3000
BOX 270, TD CENTRE
TORONTO ON M5K 1N2 CA CANADA

MAILED
JUL 07 2011
OFFICE OF PETITIONS

In re Application of	:	
David Venturi	:	
Application No. 11/065,155	:	ON PETITION
Filed: February 25, 2005	:	
Attorney Docket No.: 34327-2004	:	

This is a decision in response to the petition, filed June 22, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Edward Fan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned on for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 21, 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 March 22, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and submission required under 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1781 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAILED
MAY 10 2011
OFFICE OF PETITIONS

LEXMARK INTERNATIONAL,
INC.
INTELLECTUAL PROPERTY LAW
DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

In re Application of

Adkins, et al.

Application No. 11/065,197

Filed: February 24, 2005

Attorney Docket No. 2003-0786.02

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 23, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed July 17, 2009. The final Office action set a shortened statutory period for reply of three months from its mailing date. A proper response was not received within the allowable period and the application became abandoned on November 18, 2009. A Notice of Abandonment was mailed April 30, 2010.

The Request for Continued Examination and amendment filed March 23, 2011, are noted.

The application file is being forwarded to Technology Center 3600, GAU 3622 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SUMMA, ADDITON & ASHE, PA
11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE, NC 28277

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Jay Philip Bregman, et al.	:	
Application No. 11/065,474	:	DECISION GRANTING PETITION
Filed: February 24, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1496.2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 26, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 26, 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 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 3687 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date : January 11, 2012

In re Application of :

Eric Ward

Application No : 11065505

Filed : 24-Feb-2005

Attorney Docket No : SPG6617US

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed January 11, 2012 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11065505
Filing Date	24-Feb-2005
First Named Inventor	Eric Ward
Art Unit	1767
Examiner Name	PETER GODENSCHWAGER
Attorney Docket Number	SPG6617US
Title	SULFUR BASED CORROSION INHIBITORS

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	/Christopher Casieri/
Name	Christopher S. Casieri
Registration Number	50919

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.
11/065,510	02/23/2005	Robert P. Morris	I291/US	8895

49278 7590 10/19/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
SHAW, ROBERT A

ART UNIT	PAPER NUMBER
2455	

DATE MAILED: 10/19/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/065,510	02/23/2005	Robert P. Morris	I291/US	8895

49278 7590 10/19/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
SHAW, ROBERT A

ART UNIT	PAPER NUMBER
2455	

MAIL DATE	DELIVERY MODE
10/19/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Scenera Research, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

MAILED

OCT 19 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of:
Morris
Appl. No.: 11/065,510
Filed: February 23, 2005
For: **METHOD AND SYSTEM FOR ENABLING STRUCTURED REAL-TIME CONVERSATIONS BETWEEN MULTIPLE PARTICIPANTS**

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on September 20, 2011. This is the fourth petition for suspension.

The petition is **GRANTED**.

Pursuant to applicant's request filed on September 20, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from the mailing of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Christopher Grant whose telephone number is (571) 272-7294.

/Christopher Grant/
Christopher Grant, WQAS
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Patent No. 7,370,297	: DECISION ON REQUEST FOR
OTSUBO, MOTOHIDE	: RECONSIDERATION OF
Issue Date: 05/06/2008	: PATENT TERM ADJUSTMENT
Application No. 11/065,535	: AND
Filed: 02/25/2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 042264-0109	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 3, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred thirty (430) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **four hundred thirty (430) days** is **GRANTED**.

The Office will charge the requisite $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred thirty (430) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,370,297 B2

DATED : May 6, 2008 **DRAFT**

INVENTOR(S) : OTSUBO

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 359 days.

Delete the phrase "by 359 days" and insert – by 430 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
NOV 04 2011
OFFICE OF PETITIONS

In re Patent No. 7,751,381 :
Issue Date: July 6, 2010 :
Application No. 11/065,564 : ON PETITION
Filed: February 25, 2005 :
Attorney Docket No. **1213.44841X00** :

This is a decision on the petition under 37 CFR 1.183 filed October 25, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Hitachi, Ltd. (JP) and Hitachi Advanced Systems Corporation (JP)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Petitioner has submitted $400 for the payment of the petition fee. However, the fee for the petition under 37 CFR 3.81(b) is $130. Therefore, the overpayment of $270 will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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ASSOULINE & BERLOWE
3250 MARY ST STE 308
MIAMI, FL 33133-5232

MAILED
FEB 18 2011
OFFICE OF PETITIONS

In re Application of :
Bach et al. :
Application No. 11/065,585 : ON PETITION
Filing: February 24, 2005 :
Attorney Docket No. 00906.0007 :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 24, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by the applicant he is more than 65 years of age and is also accompanied with a copy of applicant's Florida Driver's License. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

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

Decision Date : August 17,2011

In re Application of :

Stanley Bach

Application No : 11065585

Filed: 24-Feb-2005

Attorney Docket No : 00906.0007

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed August 17,2011

The request is **APPROVED**

The request was signed by Loren Donald Pearson (registration no. 42987) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Arctic Heat, Inc.
Name2	Mr. Robert S. Zelko
Address 1	3234 SE Fairway East
Address 2	
City	Stuart
State	FL
Postal Code	34996-6163
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	11065585
Filing Date	24-Feb-2005
First Named Inventor	Stanley Bach
Art Unit	3749
Examiner Name	SARAH SUERETH
Attorney Docket Number	00906.0007
Title	Heating, ventilating, and air-conditioning system utilizing a pressurized liquid and a fluid-turbine generator

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Arctic Heat, Inc. Mr. Robert S. Zelko
Address	3234 SE Fairway East
City	Stuart
State	FL
Postal Code	34996-6163

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Loren D. Pearson/
Name	Loren Donald Pearson
Registration Number	42987

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

September 15, 2011

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

Re Application of
CRUCHON-DUPEYRAT, SYLVAIN, Et Al.
Application: **11/065694** : **DECISION ON PETITION**
Filed: **02/25/2005** : **ACCEPTANCE OF COLOR**
Attorney Docket No: **083847-0266** : **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) February 25, 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 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

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.
11/065,694	02/25/2005	Sylvain Cruchon-Dupeyrat	083847-0266	3834

7590 09/16/2011
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER
VETERE, ROBERT A

ART UNIT	PAPER NUMBER
1712	

MAIL DATE	DELIVERY MODE
09/16/2011	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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
FEB 15 2012
OFFICE OF PETITIONS

In re Patent of Cruchon-	:	
Dupeyrat et al.	:	DECISION ON REQUEST
Patent No. 8,071,168	:	FOR RECONSIDERATION
Issue Date: December 6, 2011	:	OF PATENT TERM ADJUSTMENT
Application No. 11/065,694	:	& NOTICE OF INTENT TO ISSUE
Filed: February 25, 2005	:	CERTIFICATE OF CORRECTION
Atty Docket No. 083847-0266	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT UNDER 37 C.F.R. 1.705(d), filed February 3, 2012. Patentees request that the revised patent term adjustment indicated on the patent be corrected from eight hundred ninety-seven (897) days to one thousand twenty (1020) days.

The petition is **GRANTED.**

On December 6, 2011, the above-identified application matured into U.S. Patent No. 8,071,168 with a revised patent term adjustment of 897 days. On February 3, 2012, patentees timely filed the instant petition in which they disclose the Office failed to consider two instances of applicant delay, based on 37 CFR 1.704(b), in responding to a non-final Office action, mailed October 15, 2008 and a final Office action, mailed July 8, 2009. In addition, patentees disclose the Office erroneously included 62 days of Office delay for delay in issuing an action from the date after a response to a non-final Office action was filed on April 14, 2009. Finally, patentees argue the Office failed to properly calculate the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay")due to the Office stopping the clock based on an Request for Continued Examination (RCE) allegedly filed on January 7, 2009. Patentees argue the only RCE filed in the application was filed on January 7, 2010.

37 CFR 1.704(b), which provides, in pertinent part, that:

An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In response to the October 15, 2008 non-final Office action, applicants filed a reply on April 14, 2009. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 89 days for applicant delay for the period beginning on January 16, 2009, the day after the date that is three months after the mailing date of the October 15, 2008 non-final Office action, and ending on April 14, 2009, the date the reply was filed. A 89 day reduction is being entered.

In response to the July 8, 2009 final Office action, applicants filed a reply on January 7, 2010. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 91 days for applicant delay for the period beginning on October 9, 2009, the day after the date that is three months after the mailing date of the July 8, 2009 final Office action, and ending on January 8, 2010, the date the reply was filed. A 91 day reduction is being entered.

Patentees are correct that no adjustment is warranted under § 1.702(a)(2) in connection with the mailing of a final Office action on July 8, 2009. The July 8, 2009 final Office action was mailed within 4 months of the filing of the April 14, 2009 reply to the October 15, 2008 non-final Office action. Accordingly, the 62 day adjustment is being removed.

A review of the application's image file wrapper reveals that patentees are correct that no RCE was file don January 7, 2009.

The only RCE filed in the application was filed on January 7, 2010. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The maximum period of B Delay in this case is 681 days, which is the number of days beginning on February 26, 2008, the day after the date three years after the filing date, and ending on January 6, 2010, the day before the date the RCE was filed. PTA records will be corrected to show that the maximum B delay period is 681 days, not 316 days.

In view thereof, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand twenty (1020) days, which is 790 days of A delay + 681 days of B delay minus 119 days of overlapping delay minus 332 (89 + 91 + 91 + 61) days of Applicant delay.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand twenty (1020)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,071,168 B2

DATED : **December 6, 2011** **DRAFT**

INVENTOR(S) : Cruchon-Dupeyrat et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 897 days

Delete the phrase "by 897 days" and insert – by 1020 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

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OFFICE OF PETITIONS

In re Application of
Darwin Hu, et. al.
Application No. 11/065,699
Filed: February 23, 2005
Attorney Docket No. 889712-33

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed June 2, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Joe Zheng appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

This application was held abandoned for failure to reply to the nonfinal Office action mailed April 2, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 9, 2009.

Petitioner asserts that the Office action dated April 2, 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.

The showing required to establish nonreceipt of an Office communication must include[1]:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

[1] *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).

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

The petition fails to satisfy the requirements of (1) and (3) above.

With respect to item (1), petitioner failed to provide a statement that the docketing system is sufficiently reliable. Thus, the appropriate statement must be provided by petitioner.

With respect to item (3), petitioner states, "Depending on the nature of the Office Action, a date a response is supposed to be filed can be manually filled in and a statutory last date thereof is automatically filled in (correctable). As both Notices were never received, no records are in existence." Unfortunately, the evidence presented seems to imply that the Office action of April 2, 2009 was docketed as received on April 5, 2009.

If the Office action was not received, petitioner should have supplied the Office with a copy of the docket records that shows where it would have been docketed had it been received instead of a copy of a docket record that shows that the Office action of April 2, 2009 was actually received.

Petitioner should note that the showing under 37 CFR 1.181 may not be sufficient if there is evidence 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. Accordingly, since the evidence presented seems to establish that the Office action mailed April 2, 2009 was received at the correspondence address of record, the petition requesting withdrawal of the holding of abandonment cannot be granted.

Petitioner is encouraged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

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).

Any request for reconsideration of this decision should be filed within **two (2) months** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to 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
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SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

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FEB 09 2011

OFFICE OF PETITIONS

In re Application of :
Darwin Hu, et. al. :
Application No. 11/065,699 : ON PETITION
Filed: February 23, 2005 :
Attorney Docket No. 889712-33 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 2010, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Joe Zheng appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2629 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Bookbinder et al.	:	DECISION ON REQUEST
Application No. 11/065716	:	FOR RECONSIDERATION OF
Filing or 371(c) Date: 02/23/2005	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
3800020.00022 / 3052	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed September 15, 2010. Applicant submits that the correct patent term adjustment to date is 129 days, not 221 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction (1) based upon an assertion that the Office erred in failing to calculate a reduction of 93 days, and (2) on the basis that the Office erred in calculating an adjustment of 94 days. The application for Patent Term Adjustment is properly treated under 37 C.F.R. § 1.705(b).

The Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

BACKGROUND

The application was filed on February 23, 2005. On June 24, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 221 days.

On September 15, 2010, applicant timely submitted the present request for reconsideration of patent term adjustment[1]. Applicant asserts that the Office erred in failing to calculate a reduction of 93 days pursuant to 37 CFR 1.704(b), in connection with the filing of a reply to a Restriction Requirement, mailed October 7, 2007, on April 7, 2008, three months and 93 days after the mailing of the Restriction Requirement. Applicant also asserts that the Office errantly assessed a reduction of 94 days in connection with the filing of a reply to a Restriction Requirement. Applicant provides that the reply was responsive to an August 8, 2008, Notice of Restarted Response Period for the Restriction Requirement, mailed July 25, 2009. Applicant asserts that the Reply to the Restriction Requirement was filed using the Express Mail Service of the United

[1] Office records show that the Issue Fee payment was received in the Office on September 23, 2010.

States Postal Service ("USPS") on February 9, 2009, and not February 10, 2009, and an adjustment of 93 days, and not 94 days, is appropriate.

OPINION

Applicant's arguments have been carefully considered. A review of Office records confirms that applicant filed a reply to a Restriction Requirement, mailed October 7, 2007, on April 7, 2008, three months and 93 days after the mailing of the Restriction Requirement. Pursuant to 37 CFR 1.704(b), a reduction of 93 days is properly assessed applicant.

Regarding the filing of the reply to a Restriction Requirement on February 9, 2009, using the Express Mail Service of the USPS, a review of Office records confirms that applicant filed a reply to a Restriction Requirement via Express Mail Service of the USPS on February 9, 2009. However, Office records also confirm that the Office mailed a Restriction Requirement on July 25, 2008. The Restriction Requirement mailed July 25, 2008 was an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. The subsequent action in this case does not negate the fact that a first Office action was mailed on July 25, 2008. Accordingly, the period of examination delay is properly calculated based on the July 25, 2008 date. Pursuant to 37 CFR 1.704(b), a period of reduction of 107 days, beginning on the day after the date that is three months after the date of mailing of the Restriction Requirement, October 26, 2007, and ending on the date the reply was filed, February 9, 2009, is appropriate.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is one hundred fifteen (115) days (530 days Office adjustments – 415 days Applicant delays), subject to any terminal disclaimer.

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 matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

PALM Resource Center

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11065716 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11065716

Application Filing Date 02/23/2005	OverLapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 530
A Delays 530	PTO Manual Adjustment -106
B Delays 0	Applicant Delay (APPL) 309
C Delays 0	Total PTA (days) 115

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
123	12/12/2010		P028	Adjustment of PTA Calculation by PTO		106	0
104	06/24/2010		MN/=.	Mail Notice of Allowance			0
103	06/22/2010		IREV	Issue Revision Completed			0
102	06/22/2010		DVER	Document Verification			0
101	06/22/2010		N/=.	Notice of Allowance Data Verification Completed			0
100	06/22/2010		DOCK	Case Docketed to Examiner in GAU			0
99	06/21/2010		EX.A	Examiner's Amendment Communication			0
98	06/21/2010		CNTA	Notice of Allowability			0
97	06/18/2010		P574	Paralegal TD Accepted			0
96	06/17/2010	03/30/2010	DIST	Terminal Disclaimer Filed		79	87
94	06/09/2010		FWDX	Date Forwarded to Examiner			0
95	06/01/2010		IDSC	Information Disclosure Statement considered			0
93	06/01/2010		SA..	Supplemental Response			0
92	06/01/2010		RCAP	Reference capture on IDS			0
91	06/01/2010		M844	Information Disclosure Statement (IDS) Filed			0
90	06/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
88	04/29/2010		FWDX	Date Forwarded to Examiner			0
89	03/30/2010		IDSC	Information Disclosure Statement considered			0
87	03/30/2010	12/30/2009	A...	Response after Non-Final Action		99	79
86	03/30/2010		XT/G	Request for Extension of Time - Granted			0
85	03/30/2010		RU47.	Rule 47 / 48 Correction of Inventorship Papers Filed			0
84	03/30/2010		RCAP	Reference capture on IDS			0
83	03/30/2010		M844	Information Disclosure Statement (IDS) Filed			0
82	03/30/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
81	10/29/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
80	10/21/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
79	09/30/2009		MCTNF	Mail Non-Final Rejection			0
78	09/22/2009		CTNF	Non-Final Rejection			0
67	09/04/2009		DOCK	Case Docketed to Examiner in GAU			0
66	08/20/2009		DOCK	Case Docketed to Examiner in GAU			0
63	06/23/2009		FWDX	Date Forwarded to Examiner			0
70	06/03/2009		IDSC	Information Disclosure Statement considered			0
65	06/03/2009		RCAP	Reference capture on IDS			0
64	06/03/2009	06/03/2009	EIDS.	Electronic Information Disclosure Statement			62
62	06/03/2009		ELC.	Response to Election / Restriction Filed			0
61	06/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
60	05/29/2009		MCTRS	Mail Restriction Requirement			0
59	05/26/2009		CTRS	Requirement for Restriction / Election			0
58	05/20/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
57	03/10/2009		FWDX	Date Forwarded to Examiner			0
56	02/10/2009	11/08/2008	ELC.	Response to Election / Restriction Filed		94	51
55	02/10/2009		XT/G	Request for Extension of Time - Granted			0
71	02/09/2009		IDSC	Information Disclosure Statement considered			0
54	02/09/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
53	09/05/2008		BIG.	Statement Filed Indicating a Loss of Entitlement to Small Entity Status			0
51	08/08/2008		MNRES	Mail Notice of Restarted Response Period			0
50	08/06/2008		NRES	Letter Restarting Period for Response (i.e. Letter re: References)			0
49	07/25/2008		MCTRS	Mail Restriction Requirement			0
48	07/21/2008		CTRS	Requirement for Restriction / Election			0
45	05/15/2008		FWDX	Date Forwarded to Examiner			0
72	05/12/2008		IDSC	Information Disclosure Statement considered			0
47	05/12/2008	04/29/2008	M844	Information Disclosure Statement (IDS) Filed		13	44
46	05/12/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
44	04/29/2008	04/07/2008	ELC.	Response to Election / Restriction Filed		22	37
43	04/28/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
42	04/25/2008		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
35	04/25/2008		MNRAB	Mail Notice of Rescinded Abandonment			0
41	04/24/2008		C.AD	Correspondence Address Change			0
38	04/24/2008		FWDX	Date Forwarded to Examiner			0
34	04/24/2008		NRAB	Notice of Rescinded Abandonment in TCs			0
33	04/17/2008		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
31	04/14/2008		ABN2	Aband. for Failure to Respond to O. A.			0
73	04/07/2008		IDSC	Information Disclosure Statement considered			0
40	04/07/2008		RCAP	Reference capture on IDS			0
39	04/07/2008		M844	Information Disclosure Statement (IDS) Filed			0
37.1	04/07/2008		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
37	04/07/2008		ELC.	Response to Election / Restriction Filed			0
36	04/07/2008		XT/G	Request for Extension of Time - Granted			0
32	04/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
29	10/05/2007	04/23/2006	MCTRS	Mail Restriction Requirement	520		-1
28	10/01/2007		CTRS	Requirement for Restriction / Election			0
30	09/21/2007		A.PE	Preliminary Amendment			0
26	07/16/2007		A.PE	Preliminary Amendment			0
74	03/16/2007		IDSC	Information Disclosure Statement considered			0
25	03/16/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
24	03/16/2007		RCAP	Reference capture on IDS			0
75	12/11/2006		IDSC	Information Disclosure Statement considered			0
23	12/11/2006		RCAP	Reference capture on IDS			0
22.7	12/11/2006		M844	Information Disclosure Statement (IDS) Filed			0
22	12/11/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
76	11/20/2006		IDSC	Information Disclosure Statement considered			0
21.7	11/20/2006		M844	Information Disclosure Statement (IDS) Filed			0
21	11/20/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
18	11/30/2005		DOCK	Case Docketed to Examiner in GAU			0
77	11/09/2005		IDSC	Information Disclosure Statement considered			0
20	11/09/2005		RCAP	Reference capture on IDS			0
19.7	11/09/2005		M844	Information Disclosure Statement (IDS) Filed			0
19	11/09/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
17	10/05/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	08/12/2005		OIPE	Application Dispatched from OIPE			0
14	08/12/2005		COMP	Application Is Now Complete			0
10	07/20/2005		CRFE	CRF Is Good Technically / Entered into Database			0
16	07/11/2005		A.PE	Preliminary Amendment			0
13	07/11/2005	06/30/2005	ADDFLFEE	Additional Application Filing Fees		11	6
12	07/11/2005		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
11	07/11/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
9	05/10/2005		SQPR	SEQUENCE ERRORS			0
8	04/22/2005		FLFEE	Payment of additional filing fee/Preexam			0
7	04/22/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
6	03/30/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	03/17/2005		L194	Cleared by OIPE CSR			0
2	03/13/2005		SCAN	IFW Scan & PACR Auto Security Review			0
1	02/23/2005		IEXX	Initial Exam Team nn			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/15/11

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11065716 Patent No.: 7871607

CofC mailroom date: 02/28/11

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: _____

/Manjunath Rao/ 1656

SPE **Art Unit**

PAGE 2/2 * RCVD AT 3/16/2011 9:30:14 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/48 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-00

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/11

TO SPE OF : ART UNIT: 3625 Attn: SMITH JEFFREY A (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/065734 Patent No.: 7536358

C of C Mailroom date: 03/23/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3625
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120321

DATE : March 21, 2012

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 7,145,364

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:

/SHAWKI ISMAIL/
Supervisory Patent Examiner.Art Unit 2819

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: Risbood 11 (P)-US-NP	Patent Number: 7,660,525
Filing Date (or 371(b) or (f) Date): February 25, 2005	Issue Date: February 9, 2010
First Named Inventor: Pankaj Risbood	
Title: Methods and apparatus for optimizing utilization in a ring network	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

Mail Date: 08/13/2010

Applicant	: Pankaj Risbood	: DECISION ON REQUEST FOR
Patent Number	: 7660525	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/065,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **982** 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 : **1-28-11**

TO SPE OF : ART UNIT **3729**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11066030** Patent No.: **7503112**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: Please Approve.

/Derris H. Banks/ — SPE

3729 — 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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of
Tristan A. DAVIS, et *al.*
Application No. 11/066,083
Filed: February 25, 2005
Attorney Docket No.
14917.0061USI1/MS310653.1

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 8, 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 7, 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 2166 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

MAILED

JAN 20 2011

OFFICE OF PETITIONS

SAP/Finnegan, Henderson LLP
901 New York Avenue, NW
Washington, D.C. 20001-4413

In re Application of	:
Werner SINZIG et al.	: DECISION GRANTING PETITION
Application No. 11/066,229	: UNDER 37 CFR 1.181
Filed: 25 February 2005	:
Atty Docket No. 07781.0234-00	

This is a decision on the petition under 37 CFR 1.181, filed 28 May 2010, to withdraw the Notice of Abandonment mailed 10 May 2010.

The petition is **GRANTED**.

The Application became abandoned for failure to reply in a timely manner to non-final Office action mailed 6 October 2009 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The Application thus became abandoned on 7 January 2010, with notification mailed 10 May 2010.

A grantable petition to withdraw holding of abandonment under 37 CFR 1.181 based on failure to receive an Office action requires: (1) a Statement from the Practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. This present Petition includes Statements that the Office action was not received, further supported by a statement of physical examination of the file folder. Applicant has also provided a copy of the docket record at three months' past the mailing date of the Office action. The Petition is thus satisfactory.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

The application file will be referred to Technology Center Art Unit 2179 for remailing of the non-final Office action of 6 October 2009.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110902

DATE : September 2, 2011

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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: Lincoln Donovan **Art Unit** 2816

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110902A

DATE : September 2, 2011

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 11/066,610

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: /Lincoln Donovan/ **Art Unit** 2816

UNITED STATES PATENT AND TRADEMARK OFFICE

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ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD
CARLSBAD CA 92008

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,732,590	: DECISION ON
Bhanot, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/066,725	: of PATENT TERM ADJUSTMENT
Issue Date: June 8, 2010	: and
Filed: February 24, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. RTS-0678US.C1	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed August 5, 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 seventy-nine (79) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

On June 8, 2010, the instant application matured into U.S. Patent No. 7,732,590 with a patent term adjustment of twenty-three (23) days. Patentees filed the instant application for patent term adjustment on August 5, 2010. The Office determined a patent term adjustment of 23 days based upon 204 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 29 days of Office delay pursuant to 37 CFR 1.703(b), reduced by two hundred ten (210) days of Applicant delay due to four instances of Applicant delay. Applicants were assessed thirty-one (31) and ninety-one (91) days pursuant to 37 CFR 1.704(b), and eleven (11) and seventy-seven (77) days pursuant to 37 CFR 1.704(c)(8).

Patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date of the patent was not included in the "B" delay period. The over three year period began on February 25, 2008 and ended on May 19, 2008 (one day before the RCE filing date of May 20, 2008), and is 85 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the "B" delay period is 85 days, not 29 days as originally calculated.

However, a review of the file reveals that Applicants should have been assessed twenty-two (22) days of Applicant delay pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on September 29, 2009. In reply, Applicants filed an RCE on December 23, 2009, to which the Office responded by mailing another Notice of Allowance on January 13, 2010. Accordingly, pursuant to 37 CFR 1.704(c)(10), Applicant delay of 22 days should have been assessed.

In view thereof, the correct number of days of patent term adjustment is **fifty-seven (57)** days (289 (204+85) days of PTO delay, reduced by 232 (31+11+91+77+22) 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 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 **fifty-seven (57)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,732,590 B2

DATED : **June 8, 2010**

INVENTOR(S) : Bhanot 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 23 days.

Delete the phrase "by 23 days" and insert – by 57 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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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Allen et al.	:	DECISION ON PETITION
Application No. 11/066,728	:	TO WITHDRAW
Filed: February 25, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0066US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed December 7, 2010 in the above-identified application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201.

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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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Patent of Greyson et al.	:	LETTER REGARDING
Patent No. 7,862,811	:	PATENT TERM ADJUSTMENT
Issue Date: January 4, 2011	:	AND NOTICE OF INTENT TO
Application No. 11/066,839	:	ISSUE CERTIFICATE OF
Filed: February 25, 2005	:	CORRECTION
Docket No. UTEC:020US	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed March 4, 2011, requesting that the patent term adjustment be corrected to one thousand three hundred nineteen (1319) days, or alternatively, one thousand three hundred thirteen (1313) days. Patentees request this correction because they assert there was no delay in connection with their November 10, 2010 response to a Notice to File Corrected Application Papers, mailed November 9, 2010.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred nineteen (1319) days, or alternatively, one thousand three hundred thirteen (1313) days is **granted to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand three hundred thirteen (1313) days.

On January 4, 2011, the above-identified application matured into U.S. Patent No. 7,862,811 with a revised patent term adjustment of 1263 days. The present petition was timely filed within two months of the issue date of the patent.

Patentees assert the patent term adjustment indicated in the patent is incorrect and should be recalculated because the Office should not have found delay in connection with their November 10, 2010 response to a Notice to File Corrected Application Papers, mailed November 9, 2010. Patentees contend that applicants did not engage in behavior that reasonably would be considered as failing in efforts to conclude prosecution of the application by filing the November 10, 2010 amendment under 37 CFR 1.312 because the amendment was expressly requested by the Office. In the alternative, if delay was found, patentees argue that the Office failed to properly calculate the length of the delay.

Contrary to patentees' position, the Office finds delay. However, a review of the application history reveals patentees are correct that the Office failed to properly calculate the length of the delay.

A Notice of Allowance was mailed on September 27, 2010. On November 9, 2010, the Office mailed a Notice to File Corrected Application Papers. On November 10, 2010, applicants filed drawings/a Rule 312 amendment in response. On November 15, 2010, the Office mailed a Response to Rule 312 Communication. On November 29, 2010, applicants filed a completed Issue Fee Transmittal and the issue and publication fees.

The filing of the November 10, 2010 drawings/Rule 312 amendment is a basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10).

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

Patentees' attention is drawn to the fact that an amendment under 37 CFR 1.312 **is** a paper that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application. There is no "expressly requested by the examiner" exemption in 37 CFR 1.704(c)(10).

Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 6, not 56, days, counting the number of days in the period beginning on November 10, 2010, the date the drawings/Rule 312 amendment was filed, and ending on November

15, 2010, the date the Office mailed a response to the drawings/Rule 312 amendment.

Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand three hundred thirteen (1313) days, which is 713 days of A Delay + 804 days of B Delay - 42 days of overlapping A and B Delay - 162 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges receipt of the $200.00 fee under 37 CFR 1.18(e).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred thirteen (1313)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,862,811 B2

DATED : **January 4, 2011** **DRAFT**

INVENTOR(S) : Greyson et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1263 days

Delete the phrase "by 1263 days" and insert – by 1313 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kathy Manke
Avago Technologies Limited
4380 Ziegler Road
Fort Collins CO 80525

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Weng Fei Wong et al. :
Application No. 11/066,919 : DECISION ON PETITION
Filed: February 25, 2005 :
Attorney Docket No. 70041640-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 27, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 28, 2009. A Notice of Abandonment was mailed on June 2, 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. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 regarding this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the reply received June 10, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mark A. Wilson
PMB: 348
2530 Berryessa Road
San Jose, CA 95132

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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Townsend and Townsend and Crew LLP /Pulmonx 017534
Two Embarcadero Center, Eighth Floor
San Francisco CA 94111-3834

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JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
John g. McCutcheon et al.	:	
Application No. 11/067,025	:	DECISION ON PETITION
Filed: February 25, 2005	:	TO WITHDRAW
Attorney Docket No. **017534-006010US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 18, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request is not approved because the practitioner(s) lacks items (1) (2) and (3) certifications mention above that is required under 37 CFR 10.40. It is also noted, that the request failed to list a correspondence address for either the first named inventor or the assignee of record. Therefore, the request can not be granted at this time we strongly encourage petitioner to use the enclosed Request for Withdrawal as Attorney or Agent and Change of Correspondence Address form PTO/SB/83.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

Attachment: Blank Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (PTO/SB/83) form

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100920A

DATE : September 20, 2010

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 7,405,416

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:

/ROBERT KIM/
Supervisory Patent Examiner.Art Unit 2881

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/067,231	02/28/2005	Yusuke Nakamura	1254-0272PUS1	8808

7590 08/18/2010
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
YU, MISOOK

ART UNIT	PAPER NUMBER
1642	

NOTIFICATION DATE	DELIVERY MODE
08/18/2010	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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August 16, 2010

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Yusuke Nakamura, et al	:	**DECISION ON PETITION**
Application No. 11067231	:	
Filed: 02/28/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **1254-0272PUS1**	:	***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) February 28, 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 containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

Kimberly Terrell, Manager
Office of Data Management
Publications Branch

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OFFICE OF PETITIONS

Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,979,700	:	DECISION ON REQUEST FOR
Elazar et al.	:	RECONSIDERATION OF
Issue Date: July 12, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/067,298	:	and
Filed: February 25, 2005	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.: 10519/1654	:	CERTIFICATE OF CORRECTION
(MDM001.001US)	:	

This is a decision on the petition filed on September 12, 2011 pursuant to 37 C.F.R. § 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twelve (912) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twelve (912) days is **GRANTED**.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) will be charged to Deposit Account No. 23-1925 in due course, as authorized on the second page of this petition. No additional fees are required.

A review of the record reveals that the Office assessed a 65-day reduction pursuant to 37 C.F.R. § 1.704(c)(10), pursuant to the submission of a paper on May 9, 2011. On this date, Applicant submitted the issue fee, form PTOL-85b, a response to the examiner's reasons for allowance, and a "REQUEST FOR REVIEW OF

[1] Petition, page 2.

PATENT TERM ADJUSTMENT." None of these items warrants a 65-day reduction pursuant to 37 C.F.R. § 1.704(c)(10).

A review of the record further reveals that the submission of an Information Disclosure Statement on January 25, 2010 warrants a 56-day reduction, pursuant to 37 C.F.R. § 1.704(c)(8).

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 **nine hundred and twelve (912) days**:

	888 days of examination delay
-	458 days of applicant delay
+	643 days of B-delay
-	161 days of overlap between the examination delay and the B-delay
	912 days

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,979,700 B2

DATED : **July 12, 2011** **DRAFT**

INVENTOR(S) : **Elazar 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 903 days

Delete the phrase "by 903 days" and insert – by 912 days --

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In re Patent No. 7034505
Issue Date: April 25,2006
Application No. 11067343
Filed: February 24,2005
Attorney Docket No. 05108/LH

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 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 June 14,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,034,505	2006-04-25	11/067,343	2005-02-24	05108/LH

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 Holtz/	Date (YYYY-MM-DD)	2011-06-14
Name	LEONARD HOLTZ	Registration Number	22974

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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HOLTZ, HOLTZ, GOODMAN & CHICK PC
220 FIFTH AVENUE
16TH FLOOR
NEW YORK, NY 10001-7708

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NOV 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,034,505	:	
Issue Date: April 25, 2006	:	
Application No. 11/067,343	:	DECISION ON REQUEST FOR REFUND
Filed: February 24, 2005	:	
Attorney Docket No. 05108/LH	:	

This is a decision on the Request For Refund filed November 1, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "On June 14, 2011, a PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c) was filed via EFS-Web along with a petition fee in the amount of $1,620 (Fee Code 1453). However, according to MPEP §1.378, no petition fee was required ....."

Applicant further states that "It is respectfully requested that the Patent Office promptly credit the petition fee paid in error, in the amount of $1,620, to the undersigned's credit card or Deposit Account 06-1378."

In view of the above, the request for refund is granted. The petition fee of $1,620.00 is being credited to petitioner's credit card account as it is the method in which the fee was paid.

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Greg Eberl :
Application No. 11/067,535 :
Filed: February 25, 2005 :
Attorney Docket No. 021063-003200US :

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS NM 87059-7507

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OFFICE OF PETITIONS

In re Application of

Birke, et al.

Application No. 11/068,054

Filed: June 7, 2005

Attorney Docket No. 1053us

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Notice of Termination of Proceedings under 37 CFR 1.53(e)", filed August 12, 2010. The petition will also be treated as a petition under 37 CFR 1.57(a).

The "Petition to Withdraw Notice of Termination of Proceedings under 37 CFR 1.53(e)" is **granted**.

The petition under 37 CFR 1.57(a) is **dismissed**.

The application was deposited on November 8, 2004. On, April 7, 2005, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because no drawings were found with application papers, but were believed to be required to understand the invention claimed. On June 7, 2005, a "Petition to Rescind Notice of Incomplete Nonprovisional Application and to Request a Filing Date" was filed in which petitioner argued that the drawings were present on November 8, 2004, and the application was, therefore, entitled to a filing date of November 8, 2004. The petition was accompanied by drawings and a declaration under 37 CFR 1.63. The petition was dismissed by a decision mailed June 23, 2005. The petition was dismissed because petitioner did not present *prima facie* evidence that the drawings accompanied the application papers deposited November 8, 2004. On September 20, 2006, a "Notice of Termination of Proceeding under 37 CFR 1.53(e) was mailed indicating that proceedings in the subject application were terminated.

The instant petition was filed on August 12, 2010. Petitioner maintains that a "Request for Reconsideration of Decision on Petition dated June 23, 2005" was mailed on August 22, 2005. A review of the application file did not reveal the petition; however, pursuant to 37 CFR 1.8, petitioner has established that the "Request for Reconsideration of Decision on Petition dated June 23, 2005" was mailed on August 22, 2005. Petitioner now requests that the "Request for Reconsideration of Decision on Petition dated June 23, 2005" be considered.

Treatment of the "Petition to Withdraw Notice of Termination of Proceedings under 37 CFR 1.53(e)"

A review of the application file reveals that on June 7, 2005, petitioner filed a "Petition to Rescind Notice of Incomplete Nonprovisional Application and to Request a Filing Date" accompanied by drawings, a declaration under 37 CFR 1.63, and a preliminary amendment. Notwithstanding that the "Petition to Rescind Notice of Incomplete Nonprovisional Application and to Request a Filing Date" failed to establish that the application was entitled to a filing of November 8, 2004, it was responsive to the Notice of Incomplete Non-Provisional Application mailed April 7, 2005, and the application should have been accorded a filing date of June 7, 2005—the date of receipt of the drawings. Accordingly, it appears that proceedings in the application were improperly terminated because a response to Notice of Incomplete Non-provisional Application was filed within the two month period set for reply. The application is being returned to a pending status with a filing date of June 7, 2005.

Treatment of the Petition under 37 CFR 1.57(a)

In the "Request for Reconsideration of Decision on Petition dated June 23, 2005", petitioner states:

> [a]pplicants' preliminary amendment accompanying a specific request for a continuation of prior US application number 09/830,131 included a request to add, on page 26 of the specification, line 8, the following paragraph:
>
> The application incorporates by reference the disclosure of German priority documents 198 48 255.8 of 20 October 1998 and 198 08 532.3 of 28 February 1999, and PCT/EP99/07855 15 October 1999.

Excerpt taken from "Request for Reconsideration of Decision on Petition dated June 23, 2005", filed August 12, 2010, pgs. 1-2.

A review of the application file reveals that a priority claim under 37 CFR 1.78 to non-provisional application 09/830,131 was present on filing. Further, it is noted that the subject application specifically incorporated by reference the above cited foreign application and the PCT application.

37 CFR 1.57 states, in pertinent part, that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior- filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
>
> (i) Supply a copy of the prior-filed application, except where the prior- filed application is an application filed under 35 U.S.C. 111;

(ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

(iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

...

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph, accompanied by the fee set forth in § 1.17(f).

The petition fails to comply with 37 CFR 1.57(a).

A review of the application file of non-provisional application 09/830,131 did not reveal any drawings. Accordingly, the instant petition does not establish that the omitted drawings are completely contained in the prior-filed application. Further, it is noted that petitioner indicates that the drawings are completely contained in the foreign application; however, petitioner has not provided a copy of the foreign application as is required by 37 CFR 1.57. Also, the drawings filed June 7, 2005, were not presented by way of amendment in compliance with 37 CFR 1.121(d).

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision in order to be considered timely. This period may not be extended pursuant to 37 CFR 1.136.

Deposit account 02-1653 will be charged $400.00 for the petition fee.

Further correspondence with respect to this matter 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
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The application file is being directed to the Office of Patent Application Processing for further review including according the application a filing date of June 7, 2005, and issuance of filing receipt.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Chris Bottorff
Supervisor
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

ROBERT W. BECKER & ASSOCIATES
Suite B
707 Hwy 66 East
Tijeras, NM 87059

MAILED
FEB 04 2011
OFFICE OF PETITIONS

In re Application of :
Birke and Neumann :
Application No.: 11/068,054 : ON PETITION
Filed: November 8, 2004 :
Attorney Docket No.: 10535us :

This is a decision on the renewed petition under 37 CFR 1.57 filed November 10, 2010.

The petition is **granted.**

The application was deposited on November 8, 2004. On April 7, 2005, the Office of Patent Application Processing mailed a Notice of Incomplete Non-Provisional Application stating that the application had not been accorded a filing date because drawings were not found with the application papers, but appeared to be necessary to understand the invention claimed. The notice provided for a period for reply of two-months from its mailing date. On June 7, 2005, a "Petition to Rescind Notice of Incomplete Non-Provisional Application and to Request Filing Date" was filed. The petition was accompanied by drawings and a declaration under 37 CFR 1.63. The petition was dismissed by a decision mailed June 23, 2005. On September 20, 2006, a "Notice of Termination of Proceeding under 37 CFR 1.53(e) was mailed. On August 12, 2010, a "Petition to Withdraw Notice of Termination of Proceedings under 37 CFR 1.53(e) was filed; the petition was also treated as a petition under 37 CFR 1.57(a). A decision on the petition was mailed November 1, 2010, granting the "Petition to Withdraw Notice of Termination of Proceeding under 37 CFR 1.53(e)" and dismissing the petition under 37 CFR 1.57(a).

The instant renewed petition was filed on November 10, 2010, and refers back to the amendment filed August 12, 2010, requesting entry of the omitted drawings found in prior-filed non-provisional application 09/830,131. A review of the application file reveals that the subject application, on filing, claimed priority under 37 CFR 1.78 to non-provisional application 09/830,131.

Effective September 21, 2004, 37 CFR 1.57 allows a priority claim to a prior-filed application to be considered an incorporation by reference statement allowing for the incorporation of the prior filed application as to inadvertently omitted portion of the specification or drawings. When using 37 CFR 1.57, applicant's are required to amend the application to include the inadvertently omitted material, and identify where the inadvertently omitted portion of the drawings can be found in the prior-filed application.

It is noted that 37 CFR 1.57(a)(3) indicates that if the application is not otherwise entitled to a filing date under 37 CFR 1.53(b), the amendment must be by way of the petition. This application was determined

not to be entitled to a filing date. Accordingly, a petition is required to amend the application pursuant to 37 CFR 1.57. The petition is granted, accordingly.

The application will be accorded a filing date of November 8, 2004.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of November 8, 2004. The Office of Patent Application Processing will issue a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Chris Bottorff
Supervisor
Office of Petitions

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Alexandria, VA 22313-1450
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MOTOROLA MOBILITY, INC.
600 US HIGHWAY 45 NORTH
W2-55BB
LIBERTYVILLE-IL 60048-5343

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NOV 04 2011
OFFICE OF PETITIONS

In re Application of :
Mika RINNE et al. :
Application No. 11/068,055 :
Filed: February 28, 2005 :
Attorney Docket No. NOK41082 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 24, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 25, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1860; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 24, 2011 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Joanne Hama at (571) 272-6052 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2444 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
FEB 02 2012
OFFICE OF PETITIONS

In re Application of	:	
Zheng et al.	:	
Application No. 11/068,064	:	ON APPLICATION FOR
Filed: February 28, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0804	:	

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 January 24, 2012. Applicant submits that the correct patent term adjustment to be indicated on the patent is nine hundred sixty-one (961) days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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

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Date Mailed : 03/24/11

Patent No. : 7383265 B2
Inventor : **Pearson , et al.**
Patent Issued : **June 3, 2008**
Docket No. : **311192.01/MSFT-4662**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the file of the application for the patent reveals that in column 7, line 53 is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

Microsoft Corporation
One Microsoft Way
Redmond WA 98052-6399

Lmn

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 112025-0598	
Application Number: 11/068,081	Filing Date (or 371(b) or (f) Date): February 28, 2005
Patent Number: 7,664,013	Issue Date: February 16, 2010
First Named Inventor: Clarence Filsfils	
Title: Loop Prevention Technique for MPLS Using Service Labels	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 08/13/2010

Applicant	: Clarence Filsfils	: DECISION ON REQUEST FOR
Patent Number	: 7664013	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/068,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1390** 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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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

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OFFICE OF PETITIONS

In re Patent No. 7,111,807
Issued: September 26, 2006
Application No. 11/068,309
Filed: February 28, 2005
Attorney Docket No: **U 015650-0**

ON PETITION

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed September 30, 2010 under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application
Shi
Application No. 11/068,483
Filed: February 28, 2005
Dkt. No.: 25040-1262

: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b) OF PATENT TERM ADJUSTMENT," filed August 17, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,045 days, not 646 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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G. L. LOOMIS & ASSOCIATES, INC.
990 HIGHLAND DRIVE
SUITE 212Q
SOLANA BEACH CA 92075

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Gary L. Loomis	:	
Application No. 11/068,580	:	ON PETITION
Filed: February 28, 2005	:	
Attorney Docket No. GLL05001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed February 10, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 11, 2010. The Notice of Abandonment was mailed October 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate 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 $ extension of time fee submitted with the petition on 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 the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 1618 for appropriate action the concurrently filed amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of	:	
Sridhar Sundararaman et al	:	
Application No. 11/068,691	:	DECISION GRANTING PETITION
Filed: February 28, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14917.1332US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 23, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 15, 2012 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 2179 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Ylitalo et al.	:	
Application No. 11/068,855	:	ON APPLICATION FOR
Filed: March 2, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0883	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed August 18, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand three hundred thirty-one (1331) days, not eight hundred twenty-two (822) 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). 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).

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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 Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Ylitalo, et al.	:	
Application No. 11/068,856	:	ON REQUEST FOR
Filed: August 10, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 0306-002-014-000000	:	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 146 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a

request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In addition, a review of the application reveals that applicants should have been assessed additional delay pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on January 13, 2010. In response, Applicants filed a Request for Continued Examination on February 11, 2010, which the Office responded to by mailing a Notice of Allowance on February 23, 2010. In view thereof, thirteen (13) days of applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(10).

In view thereof, the correct determination of PTA prior to issuance is **one thousand, two hundred and twenty-one (1221) days** (1234 days of PTO delay, reduced by 13 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. Applicants' request for a refund of the fee is denied.[2]

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

[2] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 CFR 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

PALM INTRANET

Day : Monday
Date: 8/2/2010
Time: 06:57:10

PTA Calculations for Application: 11/068856			
Application Filing Date:	03/02/2005	PTO Delay (PTO):	1234
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1221
PTO Delay Adjustment:	-13		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
98	08/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		13	
90	02/23/2010	MAIL NOTICE OF ALLOWANCE			
89	01/23/2010	ISSUE REVISION COMPLETED			
88	02/17/2010	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
87	02/17/2010	DOCUMENT VERIFICATION			
86	02/16/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
85	02/16/2010	CASE DOCKETED TO EXAMINER IN GAU			
84	02/16/2010	EXAMINER'S AMENDMENT COMMUNICATION			
83	02/16/2010	NOTICE OF ALLOWABILITY			
82	12/29/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
81	02/11/2010	REFERENCE CAPTURE ON IDS			
80	02/11/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	02/11/2010	REQUEST FOR CONTINUED EXAMINATION (RCE)			
78	02/16/2010	DISPOSAL FOR A RCE / CPA / R129			
76	02/11/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
75	02/11/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	02/11/2010	WORKFLOW - REQUEST FOR RCE - BEGIN			
73	01/19/2010	EXPORT TO INITIAL DATA CAPTURE			
72	01/13/2010	MAIL EXAMINER'S AMENDMENT			
71	01/13/2010	MAIL NOTICE OF ALLOWANCE			
70	01/11/2010	ISSUE REVISION COMPLETED			

69	01/11/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	01/07/2010	DOCUMENT VERIFICATION			
67	12/29/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
66	01/05/2010	EXAMINER'S AMENDMENT COMMUNICATION			
65	01/05/2010	NOTICE OF ALLOWABILITY			
64	11/30/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	11/30/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	12/29/2009	DATE FORWARDED TO EXAMINER			
60	12/15/2009	RESPONSE AFTER NON-FINAL ACTION			
59	11/30/2009	REFERENCE CAPTURE ON IDS			
58	11/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	11/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	11/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	09/17/2009	MAIL NON-FINAL REJECTION	1234		-1
54	09/14/2009	NON-FINAL REJECTION			
50	05/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	05/06/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	03/16/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	05/13/2009	REFERENCE CAPTURE ON IDS			
46	05/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	05/06/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	03/16/2009	REFERENCE CAPTURE ON IDS			
43	03/16/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	05/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	05/06/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

40	03/16/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	01/14/2009	PRELIMINARY AMENDMENT			
27	09/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	12/18/2008	CASE DOCKETED TO EXAMINER IN GAU			
25	11/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
24	11/18/2008	CASE DOCKETED TO EXAMINER IN GAU			
23	09/02/2008	REFERENCE CAPTURE ON IDS			
22	09/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
20	09/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/15/2008	TRANSFER INQUIRY TO GAU			
18	04/11/2008	CORRESPONDENCE ADDRESS CHANGE			
17	04/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
16	03/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	10/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	01/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
12	08/15/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
10	05/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	03/02/2005	REFERENCE CAPTURE ON IDS			
8.7	03/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/25/2005	APPLICATION RETURN FROM OIPE			
6	03/25/2005	APPLICATION RETURN TO OIPE			
5	03/25/2005	APPLICATION DISPATCHED FROM OIPE			
4	03/28/2005	APPLICATION IS NOW COMPLETE			
3	03/19/2005	CLEARED BY OIPE CSR			
2	03/15/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/02/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Hans-Joachim Vom Stein :
Application No. 11/068,887 :
Filed: March 2, 2005 :
Attorney Docket No. 024943-067 :
Title: CONNECTION BETWEEN AN :
ELASTOMERIC ELEMENT AND A :
FURTHER ELEMENT AND METHOD FOR :
PRODUCING SUCH CONNECTION :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(B)" filed March 11, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is six hundred thirty-three (633) days, not three hundred fifty (550) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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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 specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Kotani et al.	:	
Application No. 11/068,896	:	DECISION ON APPLICATION
Filed: March 2, 2005	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket No.04329-3499	:	

This is in response to the "Notice of Error in the Determination of Patent Term Adjustment" filed February 16, 2010. Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from seven hundred and forty-three (743) days to six hundred and sixty-eight (668) days.

The application for patent term adjustment is **GRANTED.**

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred and sixty-eight (668) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On November 24, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 743 days. On February 16, 2010, applicant submitted the instant petition. Applicant maintains that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and that the patent term adjustment at the time of the mailing of the Notice of Allowance should be 668 days.

Applicants' argument has been considered and is well taken. On October 28, 2008, applicants submitted a supplemental reply or

paper in the form of an Information Disclosure Statement (IDS) after filing a reply to the non-final Office action on August 14, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed October 28, 2008, reveals that applicant did not include a statement under 37 CFR 1.704(d).[1] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 75 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, August 15, 2008, and ending on the date that the IDS was filed,October 28, 2008. Accordingly, a period of reduction of 75 days is being entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is 668 days.

Deposit account 06-0916 will be charged $200.00 for the fee set forth under 37 CFR 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PALM INTRANET

Day : Tuesday
Date: 8/3/2010
Time: 12:40:55

PTA Calculations for Application: 11/068896			
Application Filing Date:	03/02/2005	PTO Delay (PTO):	743
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	668
PTO Delay Adjustment:	-75		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	08/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		75	
64	11/24/2009	MAIL NOTICE OF ALLOWANCE			
63	11/20/2009	ISSUE REVISION COMPLETED			
62	11/12/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
61	11/05/2009	DOCUMENT VERIFICATION			
60	11/05/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	11/05/2009	NOTICE OF ALLOWABILITY			
58	09/07/2009	DATE FORWARDED TO EXAMINER			
57	07/29/2009	RESPONSE AFTER NON-FINAL ACTION			
56	04/29/2009	MAIL NON-FINAL REJECTION			
55	04/27/2009	NON-FINAL REJECTION			
50	02/17/2009	DATE FORWARDED TO EXAMINER			
49	02/12/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	02/17/2009	DATE FORWARDED TO EXAMINER			
47	02/12/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	02/17/2009	DISPOSAL FOR A RCE / CPA / R129			
45	02/12/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	11/12/2008	MAIL FINAL REJECTION (PTOL - 326)			
43	11/10/2008	FINAL REJECTION			
40	07/25/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	10/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	10/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	09/05/2008	DATE FORWARDED TO EXAMINER			
36	08/14/2008	RESPONSE AFTER NON-FINAL ACTION			
35	07/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	07/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	05/14/2008	MAIL NON-FINAL REJECTION	743		-1
32	05/13/2008	CASE DOCKETED TO EXAMINER IN GAU			
31	05/12/2008	NON-FINAL REJECTION			
30	03/04/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	03/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	04/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	10/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	03/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	03/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	03/02/2005	REFERENCE CAPTURE ON IDS			
13.7	04/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/14/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11.7	03/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/01/2005	APPLICATION DISPATCHED FROM OIPE			
9	08/01/2005	APPLICATION IS NOW COMPLETE			
8	07/21/2005	ADDITIONAL APPLICATION FILING FEES			
7	07/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	04/21/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/08/2005	CLEARED BY L&R (LARS)			
3	03/18/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	03/13/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			

UNITED 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: September 29, 2010
Patent No. : 7,791,751B2
Ser. No. :11/069020
Issued September 29, 2010
Inventor(s) Robert M. Lofthus, et al.
Title PRINTING SYSTEMS

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

Ann M. Skerry
Fay Sharpe LLP
The Halle Building, 5th Fl.
1228 Euclid Avenue
Cleveland, OH 44115-1843

MD/mt

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Commissioner for Patents
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www.uspto.gov

McCarter & English LLP
265 Franklin Street
Boston, MA 02110

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,597,019 Tapolsky et al. Issue Date: August 25, 2009 Application No. 11/069,089 Filed: March 1, 2005 Attorney Docket No. 117744-09205 Title: Pharmaceutical Carrier Device Suitable for Delivery of Pharmaceutical Compounds to Mucosal Surfaces	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand one hundred and ninety-one(1191) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred and ninety-one thirty-two (1191) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,579,019

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Tapolsky 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 835 days

Delete the phrase "by 835 days" and insert – by 1191 days--

Day : Wednesday

PALM INTRANET

Date: 9/1/2010
Time: 09:58:58

PTA Calculations for Application: 11/069089			
Application Filing Date:	03/01/2005	PTO Delay (PTO):	856
Issue Date of Patent:	08/25/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	21
Post-Issue Petitions:	0	Total PTA (days):	1191
PTO Delay Adjustment:	356		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	09/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	356		
89.5	08/05/2009	PTA 36 MONTHS			
89	08/25/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
88	07/27/2009	EXPORT TO FINAL DATA CAPTURE			
87	07/24/2009	DISPATCH TO FDC			
86	07/20/2009	MAIL-PETITION DECISION - DISMISSED			
85	07/20/2009	PETITION DECISION - DISMISSED			
84	05/27/2009	FINISHED INITIAL DATA CAPTURE			
83	05/12/2009	PETITION ENTERED			
82	05/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
81	05/12/2009	ISSUE FEE PAYMENT VERIFIED			
80	05/12/2009	ISSUE FEE PAYMENT RECEIVED			
79	05/08/2009	EXPORT TO INITIAL DATA CAPTURE			
76	05/04/2009	MAIL NOTICE OF ALLOWANCE			
75	05/04/2009	ISSUE REVISION COMPLETED			
74	05/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	05/04/2009	CASE DOCKETED TO EXAMINER IN GAU			
72	05/04/2009	DOCUMENT VERIFICATION			
71	04/30/2009	EXAMINER'S AMENDMENT COMMUNICATION			
70	04/30/2009	NOTICE OF ALLOWABILITY			
69	04/27/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	04/30/2009	DATE FORWARDED TO EXAMINER			
67	04/24/2009	RESPONSE AFTER NON-FINAL ACTION			

66	04/30/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
65	04/23/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
62	04/23/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	04/16/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
58	04/14/2009	CORRESPONDENCE ADDRESS CHANGE			
57	04/14/2009	MAIL NON-FINAL REJECTION			
56	04/13/2009	NON-FINAL REJECTION			
53	09/08/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	09/08/2008	REFERENCE CAPTURE ON IDS			
51	09/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	01/15/2009	DATE FORWARDED TO EXAMINER			
49	12/24/2008	RESPONSE AFTER NON-FINAL ACTION		21	42
48	12/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	12/23/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
46	12/17/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
45	10/10/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	10/07/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	09/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	09/03/2008	MAIL NON-FINAL REJECTION	856		-1
41	09/02/2008	NON-FINAL REJECTION			
36	06/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	09/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	07/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	03/01/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	06/18/2008	REFERENCE CAPTURE ON IDS			
31	06/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

30	06/18/2008	PRELIMINARY AMENDMENT			
29	06/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	04/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
27	03/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
26	01/22/2008	PRELIMINARY AMENDMENT			
25	09/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/05/2007	REFERENCE CAPTURE ON IDS			
23	09/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/05/2007	PRELIMINARY AMENDMENT			
21	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
20	07/31/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
19	07/26/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	05/17/2007	MAIL-PETITION DECISION - DISMISSED			
17	04/26/2007	CORRESPONDENCE ADDRESS CHANGE			
16	04/27/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
15	12/19/2006	PETITION ENTERED			
14	02/14/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	02/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	03/01/2005	PRELIMINARY AMENDMENT			
11	07/27/2005	REFERENCE CAPTURE ON IDS			
10.7	07/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	07/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	03/01/2005	REFERENCE CAPTURE ON IDS			
8.7	03/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/28/2005	APPLICATION RETURN FROM OIPE			
6	03/28/2005	APPLICATION RETURN TO OIPE			
5	03/28/2005	APPLICATION DISPATCHED FROM OIPE			
4	03/28/2005	APPLICATION IS NOW COMPLETE			

3	03/18/2005	CLEARED BY OIPE CSR			
2	03/13/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/01/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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MCDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON DC 20005-3096

MAILED
NOV 10 2010
OFFICE OF PETITIONS

In re Patent No. 7,645,451	: DECISION ON
Sean A. McCarthy	: REQUEST FOR RECONSIDERATION
Application No. 11/069,137	: of PATENT TERM ADJUSTMENT
Issue Date: January 12, 2010	: and
Filed: February 28, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 079259-0511	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT CALCULATION", filed July 9, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from nine hundred seventeen (917) days to nine hundred thirty-five (935) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

On January 12, 2010, the instant application matured into U.S. Patent No. 7,645,451 with a patent term adjustment of nine hundred seventeen (917) days. Patentee timely filed the instant application for patent term adjustment on July 10, 2010. The Office determined a patent term adjustment of 917 days based upon 425days of Office delay pursuant to 37 CFR 1.703(a)(1) and 666 days pursuant to 37 CFR 1.703(b), reduced by 1, 95, and 61 days of Applicant delay pursuant to 37 CFR 1.704(b), and 17 days pursuant to 37 CFR 1.704(c)(10).

Patentee is correct that the proper amount of days over 36 months from the filing date of the application until the patent issue date was not included in the "B" delay period. The over three year period began on February 29, 2008 and ended on January 12, 2010, and is 684 days (not 683 days as pointed out by Patentee). As such, the "B" delay period is 684 days.

In view thereof, the correct number of days of patent term adjustment is 935 days (1109 days (425 days of "A"' delay and 684 days of "B" delay) of PTO delay, reduced by 174 (1+95+61+17) 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 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 thirty-five (935)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,645,451 B2

DATED : **January 12, 2010**

INVENTOR(S) : McCarthy

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 917 days.

Delete the phrase "by 917 days" and insert – by 935 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Bandarage et al. :
Application No. 11/069,197 :
Filed: February 28, 2005 :
Attorney Dkt No. 16534-538C02US :
For: 3, 10, AND 12A SUBSTITUTED :
TETRACYCLINE COMPOUNDS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" filed March 18, 2010. Applicants dispute the 98 day and 2 day reductions. Applicants also state the 8 day adjustment should be a 6 day adjustment. Applicants' calculations also include time for the Office taking more than three years to issue the patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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.

---

[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 December 18, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The instant application for patent term adjustment was timely filed on March 18, 2010.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants dispute the 98 day reduction. Applicants contend the information disclosure statement (IDS) submitted on July 25, 2008 qualified as a submission under 37 CFR 1.97(b)(4) and as such the 98 day delay should be removed.

Applicants' argument has been considered but deemed to be unpersuasive. A period of reduction of 98 days was warranted based on 37 CFR 1.704(c)(8). 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

37 CFR 1.704(d) provides:

> A paper containing only an information disclosure statement in compliance with § § 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or

> examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In this instance, after the filing of a response on April 18, 2008, on July 25, 2008, applicants filed a supplemental response in the form of a information disclosure statement (IDS). The record supports a conclusion that this additional response was not expressly requested by the examiner. Further, the IDS did not include a §1.704(d) statement. Accordingly, the PTA should have been reduced by 98 days, the number of days beginning on the day after the date the initial reply was filed, April 19, 2008, and ending on the date that the supplemental reply or other such paper was filed, July 25, 2008. The 98 day reduction will not be removed.

Applicants also contend that the 2 day reduction for the submission of the supplemental reply in the form of an IDS on August 12, 2009 after the submission of a response on August 10, 2009 should be removed. Applicants contend the reply in the form of an amendment and an IDS were both submitted on August 12, 2009, thus a reduction is not warranted. Applicants further state based on the date of the submission of the reply on August 12, 2009, the adjustment pursuant to 1.702(a)(2)should be 6 days, not 8 days for the delay in mailing the notice of allowance on December 18, 2009.

A review of the record confirms that the amendment and the IDS were both filed on August 12, 2009, thus the 2 day reduction will be removed. Further, the adjustment of 8 days will be reduced to 6 days.

Applicants delay at the time of the mailing of the Notice of Allowance totals 537 (136 + 30 + 91 + 98 + 62 + 120) days. Office delays total 157 (20 + 92 + 32 + 7 + 6) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 0 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

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11069197 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11069197

Application Filing Date	02/28/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	159
A Delays	159	PTO Manual Adjustment	0
B Delays	0	Applicant Delay (APPL)	539
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
106	09/25/2010		P028	Adjustment of PTA Calculation by PTO		2	0
105	09/25/2010		P028	Adjustment of PTA Calculation by PTO	2		0
84	12/18/2009	12/10/2009	MN/=.	Mail Notice of Allowance	8		73
83	12/07/2009		IREV	Issue Revision Completed			0
82	12/07/2009		DVER	Document Verification			0
81	12/07/2009		N/=.	Notice of Allowance Data Verification Completed			0
80	12/07/2009		DOCK	Case Docketed to Examiner in GAU			0
79	12/07/2009		CNTA	Notice of Allowability			0
74	10/03/2009		FWDX	Date Forwarded to Examiner			0
78	08/12/2009		IDSC	Information Disclosure Statement considered			0
76	08/12/2009	08/10/2009	M844	Information Disclosure Statement (IDS) Filed		2	73
75	08/12/2009		M844	Information Disclosure Statement (IDS) Filed			0
72	08/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
73	08/10/2009		A...	Response after Non-Final Action			0
71	06/22/2009		PA..	Change in Power of Attorney (May include Associate POA)			0
77	05/20/2009		IDSC	Information Disclosure Statement considered			0
70	05/20/2009		M844	Information Disclosure Statement (IDS) Filed			0
67	05/20/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
64	05/12/2009	05/05/2009	MCTNF	Mail Non-Final Rejection	7		57
63	05/11/2009		CTNF	Non-Final Rejection			0
69	05/05/2009		RCAP	Reference capture on IDS			0
68	05/05/2009	01/05/2009	M844	Information Disclosure Statement (IDS) Filed		120	57
62	05/05/2009		IDSC	Information Disclosure Statement considered			0
61	05/05/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
60	05/04/2009		DOCK	Case Docketed to Examiner in GAU			0
58	02/06/2009		FWDX	Date Forwarded to Examiner			0
57	01/05/2009	11/04/2008	A...	Response after Non-Final Action		62	52
56	01/05/2009		XT/G	Request for Extension of Time - Granted			0
55	10/23/2008		CAD	Correspondence Address Change			0
52	08/04/2008		MCTNF	Mail Non-Final Rejection			0
59	07/25/2008		IDSC	Information Disclosure Statement considered			0
54	07/25/2008	04/18/2008	M844	Information Disclosure Statement (IDS) Filed		98	43
53	07/25/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
51	07/07/2008		CTNF	Non-Final Rejection			0
46	05/01/2008		FWDX	Date Forwarded to Examiner			0
44	05/01/2008		FWDX	Date Forwarded to Examiner			0
42	05/01/2008		ABN9	Disposal for a RCE / CPA / R129			0
49	04/18/2008		IDSC	Information Disclosure Statement considered			0
48	04/18/2008		RCAP	Reference capture on IDS			0
47	04/18/2008		M844	Information Disclosure Statement (IDS) Filed			0
45	04/18/2008		AMPR	RCE- AF Processed			0
43	04/18/2008	01/18/2008	RCEX	Request for Continued Examination (RCE)		91	31
41	04/18/2008		XT/G	Request for Extension of Time - Granted			0
40	04/18/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
39	04/18/2008		BRCE	Workflow - Request for RCE - Begin			0
35	03/21/2008		FWDX	Date Forwarded to Examiner			0
34	03/18/2008		A.NE	Amendment after Final Rejection			0
33	03/18/2008		XT/G	Request for Extension of Time - Granted			0
32	01/08/2008		DOCK	Case Docketed to Examiner in GAU			0
31	10/18/2007	09/16/2007	MCTFR	Mail Final Rejection (PTOL - 326)	32		27
30	09/05/2007		CADB	Correspondence Address Change			0
29	08/04/2007		CTFR	Final Rejection			0
28	05/24/2007		FWDX	Date Forwarded to Examiner			0
25	05/23/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
27	05/16/2007	04/16/2007	A...	Response after Non-Final Action		30	23
26	05/16/2007		XT/G	Request for Extension of Time - Granted			0
24	03/08/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
23	01/16/2007	10/16/2006	MCTNF	Mail Non-Final Rejection	92		20
22	01/08/2007		CTNF	Non-Final Rejection			0
21	01/08/2007		FWDX	Date Forwarded to Examiner			0
19	10/30/2006		IDSC	Information Disclosure Statement considered			0
18	10/30/2006		RCAP	Reference capture on IDS			0
17.7	10/30/2006	06/16/2006	M844	Information Disclosure Statement (IDS) Filed		136	20
17	10/30/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
20	06/16/2006		ELC.	Response to Election / Restriction Filed			0
16	05/18/2006	04/28/2006	MCTRS	Mail Restriction Requirement	20		-1
15	05/15/2006		CTRS	Requirement for Restriction / Election			0
14	10/28/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	10/28/2005		DOCK	Case Docketed to Examiner in GAU			0
12	09/20/2005		TI1050	Transfer Inquiry to GAU			0
11	09/20/2005		TI1050	Transfer Inquiry to GAU			0
10	09/20/2005		OIPE	Application Dispatched from OIPE			0
9	09/20/2005		COMP	Application Is Now Complete			0
8	09/06/2005		ADDFLFEE	Additional Application Filing Fees			0
7	09/06/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
6	08/10/2005		L128	Cleared by L&R (LARS)			0
5	07/29/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	06/28/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	06/22/2005		SCAN	IFW Scan & PACR Auto Security Review			0
1	02/28/2005		IEXX	Initial Exam Team nn			0

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CHICAGO IL 60661

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,743,977	: DECISION ON
Chen, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/069,204	: of PATENT TERM ADJUSTMENT
Issue Date: June 29, 2010	: and
Filed: February 28, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 16324US01	: CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed August 30, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the patent is extended or adjusted from one thousand (1000) days as indicated on the patent to one thousand seventy-nine (1079) 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 days is **GRANTED** to the extent indicated herein.

On June 29, 2010, the instant application matured into U.S. Patent No. 7,743,977 with a patent term adjustment of one thousand (1000) days. Patentees timely filed the instant application for patent term adjustment on August 30, 2010 (made timely by the fact that August 29, 2010 fell on a Sunday). The Office determined a patent term adjustment of 1000 days based upon 192 days of Office delay pursuant to 37 CFR 1.703(a)(1), 83 days of Office delay pursuant to 37 CFR 1.703(a)(3), and 738 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 13 days of Applicant delay pursuant to 37 CFR 1.704(c)(10).

Applicants argue that the delay under 37 CFR 1.703(b) should not be 738 days, but rather 816 days. According to applicants, they filed a Notice of Appeal on October 3, 2007. Applicants further assert that 37 CFR 1.703(b) adjustment under § 1.703(b)(4) ended on the day the Office

mailed a Notice of Panel Decision from Pre-Appeal Brief Review, or November 8, 2007, a period of 36 days. Applicants' argument has been considered, but is not persuasive. 37 CFR 1.703(b)(4) states that any three year delay shall be reduced by:

> 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** (emphasis added).

A Notice of Panel Decision from Pre-Appeal Brief Review is not an action under 35 U.S.C. 132. The Office did not mail such an action until the non-final Office action on January 25, 2008. Accordingly, pursuant to 37 CFR 1.703(b)(4), the § 1.703(b) adjustment was correctly reduced by 115 days.

In addition, a review of the application reveals that the Office incorrectly calculated the 37 CFR 1.703(b) three year Office delay by one day. The over three year period began on February 29, 2008 (as 2008 was a leap year), and ended on June 29, 2010 (the patent issue date). As such, three year Office delay under 37 CFR 1.703(b) should be 737 days, not 738 days as calculated by the Office.

Lastly, Applicants argue that the 13 days of Applicant delay assessed under 37 CFR 1.704(c)(10) should be 12 days, not 13 days. 37 CFR 1.704(c)(10) states that the period of adjustment under 37 CFR 1.704(c) shall be reduced by "[t]he 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 (emphasis added). Here, Applicants filed an Amendment under 1.312 on May 13, 2010. The Office mailed a Response to Rule 312 Communication on May 25, 2010. As such, the number of days of Applicant delay under 37 CFR 1.703(c)(10) (beginning on May 13, 2010 and ending on May 25, 2010) was properly assessed as 13 days.

In view thereof, the correct number of days of patent term adjustment is nine hundred ninety-nine (999) days (275 days of "A" delay and 737 days of "B" delay, reduced by 13 days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the 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 ninety-nine (999)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,743,977 B2

DATED : **June 29, 2010**

INVENTOR(S) : Chen et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1000 days.

Delete the phrase "by 1000 days" and insert – by 999 days--

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Paper No.

JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS MN 55402

MAILED

OCT 11 2011

OFFICE OF PETITIONS

In re Application of
Zien et al.
Application No. 11/069,290
Patent No.: 7,201,355
Filed: March 1, 2005
Issued: April 10, 2007
Attorney Docket No.:
133.1.1/USA
Title: SUPPORT BRACKET FOR
DIFFERENTLY SIZED BUCKETS

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 21, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $1971.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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)
7199572	2007-04-03	11069350	2005-03-01	26208-1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/vanessa pierce rollins/	Date (YYYY-MM-DD)	2011-06-01
Name	Vanessa Pierce Rollins	Registration Number	42074

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.	7199572	:
Issue Date:	April 3,2007	
Application No.	11069350	:DECISION GRANTING PETITION
Filed:	March 1,2005	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	24-0443	:

This is a decision on the electronic petition, filed June 1,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 1,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Interview Summary	Application No.	Applicant(s)	
	11/069,441	LEBLANC ET AL.	
	Examiner	Art Unit	
	THOMAS H. TARCZA	3662	

All participants (applicant, applicant's representative, PTO personnel):

(1) *THOMAS H. TARCZA*. (3)_____.

(2) *Dennis J.Dupray*. (4)_____.

Date of Interview: *11 August 2010*.

Type: a)☒ Telephonic b)☐ Video Conference
c)☐ Personal [copy given to: 1)☐ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☒ No.
If Yes, brief description: _____.

Claim(s) discussed: *n/a*.

Identification of prior art discussed: *none*.

Agreement with respect to the claims f)☐ was reached. g)☐ was not reached. h)☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: *There were 2 IDSs and 2 transmittal letters filed 3/4/2010. Mr Dupray clarified that the transmittal letter with the 37CFR1.97(d) certification and fee applied to the IDS with the 2 Tornetta references on the 1449 form. The transmittal letter without the certification and fee applied to the IDS with one Englebrecht reference on the 1449.*.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Thomas H. Tarcza/
Supervisory Patent Examiner, Art Unit 3662

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
~~12236113~~ 11069441	03/01/2005	Frederick LeBlanc	1004-1-1

EXAMINER
Dao Phan
Art Unit 3662

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

The petition filed March 4, 2010 under 37 CFR §1.97(d)(2)(ii) for consideration of an information disclosure statement filed after allowance which has 2 prior art references of Tornetta on the form 1449 has been:

[X] GRANTED.

[ ] DENIED.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d)(2)(iii) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d)(2)(i) and 1.97(e)

The information disclosure statement has been placed of record in the file but will not be considered by the examiner.

/Thomas H. Tarcza/

Thomas H. Tarcza
SPE Art Unit 3662
571-272-6979

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
~~12236113~~ 11069441	03/01/2005	Frederick LeBlanc	1004-1-1

EXAMINER
Dao Phan
Art Unit 3662

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

The petition filed March 4, 2010 under 37 CFR §1.97(d)(2)(ii) for consideration of an information disclosure statement filed after allowance which has 1 prior art references of Engelbrecht on the form 1449 has been:

[ ] GRANTED.

[X] DENIED.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d)(2)(iii) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d)(2)(i) and 1.97(e)

The information disclosure statement has been placed of record in the file but will not be considered by the examiner.

/Thomas H. Tarcza/

Thomas H. Tarcza
SPE Art Unit 3662
571-272-6979

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,945,473	:
Fano et al.	: DECISION ON REQUEST FOR
Issue Date: 05/17/2011	: RECONSIDERATION OF
Application No. 11/069,472	: PATENT TERM ADJUSTMENT
Filed: 02/28/2005	:
Attorney Docket No. 12587-0225001	:
Title: SYSTEM FOR INDIVIDUALIZED CUSTOMER INTERACTION	:

This is a decision on the petition filed on July 15, 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 one hundred thirty-three (1,133) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

BACKGROUND

On May 17, 2011, the above-identified application matured into U.S. Patent No. 7,945,473, with a revised patent term adjustment of 1,058 days. On July 15, 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 1,103. 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 March 4, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 75 day period from March 4, 2011 (the mailing date of the Notice of Allowance) until May 17, 2011 (the date the patent was issued).[1] As such, Patentee maintains that the "B delay" should include the 75 days and be increased from 535 to 610 days. Patentee concludes that the correct patent term adjustment is 1,133 days (the sum of 783 days of "A delay" and 610 days of "B delay" minus 112 days of overlap between "A delay" and "B delay" minus 148 days of applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of

[1] Patentee states in its petition that the period beginning on March 4, 2011, the date the notice of allowance was mailed, and ending on May 17, 2011, the date the patent issued, is a 45 day period. However, a review by the Office indicates that this period is computed as 75 days, not 45 days.

the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 535 days based on the application having been filed under 35 U.S.C. 111(a) on February 28, 2005 and the patent not having issued as of the day after the three year date, February 29, 2008, and a request for continued examination under 132(b) having been filed on August 17, 2009. In other words, the 75-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was

filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[2]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment

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[2] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United

States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this 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 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.

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[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.

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

[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.

continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on August 17, 2009, and the patent issued by virtue of that request on May 17, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 17, 2009 and ending on May 17, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1,058 days indicated on the patent is correct.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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www.uspto.gov

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Jianzhu Chen, et al.	:	
Application No. 11/069,611	:	ON PETITION
Filed: March 1, 2005	:	
Attorney Docket No. 0492611-0614 (MIT 10101)	:	

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 **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 February 19, 2010, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 20, 2010. The Notice of Abandonment was mailed September 14, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

There was no reply to the Final Rejection of February 19, 2010 filed herewith petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $310 extension of time fee submitted with the petition on September 27, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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
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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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In re Application of	:	
Jianzhu Chen, et al.	:	
Application No. 11/069,611	:	ON PETITION
Filed: March 1, 2005	:	
Attorney Docket No. 0492611-0614 (MIT 10101)	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 19, 2010, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 20, 2010. The Notice of Abandonment was mailed September 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/891,626.

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 $310 extension of time fee submitted with the petition on September 27, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box

1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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STOEL RIVES LLP - PDX
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

In re Application of	:	
Brown	:	DECISION ON APPLICATION
Application No. 11/069,635	:	FOR
Filed: February 28, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 42923/508	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed January 31, 2011. Applicant requests that the initial determination of patent term adjustment be corrected from eight hundred forty-six (846) days to nine hundred thirty-nine (939) days. The petition will be treated under 37 C.F.R. § 1.705(b).

The application for patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is nine hundred thirty-seven (937) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 5, 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 846 days. On January 31, 2011, applicant timely[1] submitted an application for patent term adjustment. The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicant disputes the period of reduction of 91 days, pursuant to 37 CFR 1.704(c)(8), for applicant's purported delay in filing

[1] The Issue Fee payment was also received on January 31, 2011.

a supplemental response in the form of two terminal disclaimers on March 19, 2010 after applicant filed a reply to a non-final Office action on December 18, 2009. Applicant states that the terminal disclaimers were filed at the request of the examiner and, therefore, no reduction is warranted.

In addition, applicant disputes the period of reduction of 2 days, pursuant to 37 CFR 1.704(b), for Applicant delay in filing a response on October 11, 2010, to the Notice of Allowance, mailed July 9, 2010.

Applicant's arguments with respect to the two terminal disclaimers have been considered, and found persuasive. A non-final Office action was mailed on October 13, 2009. On December 18, 2009, applicant filed a response. On March 19, 2010, applicant filed a supplemental response in the form of two terminal disclaimers. The record supports a conclusion that after applicant timely filed a proper reply on December 18, 2009, Examiner Ho requested that applicant file a supplemental reply.

While Examiner Ho never reduced to writing his request that applicant submit a supplemental reply, there is sufficient contemporaneous evidence in the record to support the conclusion that the March 19, 2010 terminal disclaimers were expressly requested by the examiner, within the meaning of §1.704(c)(8). The April 6, 2010 Interview Summary of an interview that took place on March 19, 2010 states, "Applicant has agreed to file TDs in order to place the application in condition for allowance." The May 4, 2010 Interview Summary states, "Applicants thank the Examiner for conducting the Interview of March 19, 2010. … Examiner Ho requested that terminal disclaimers be filed in this case in view of issued Patent No.'s 6,775,281 and 6,862,287. Applicants agreed to do so. …" It is noted that applicant's direct assertion that Examiner Ho requested the submission of the TDs was never refuted by Examiner Ho.

Accordingly, no reduction in connection with the filing of the two terminal disclaimers on March 19, 2010 is warranted. The period of reduction of 91 days is being removed

Applicant disputes the period of reduction of 2 days, pursuant to 37 CFR 1.704(b), for Applicant delay in filing a response on October 11, 2010, to the Notice of Allowance, mailed July 9, 2010.

While the October 11, 2010 reply was timely with respect to avoiding abandonment, it was not timely for purposes of determining patent term adjustment. Per 37 CFR 1.704(b), an applicant is responsible for replying to an Office action within three months of the date the Office action was mailed or given to him. The date of receipt in the Office is the salient date for purposes of determining patent term adjustment. In the future, applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. *See* MPEP 2731.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is **nine hundred thirty-seven (937)** days - 941 days of Office delay - 4 (2 + 2) days of Applicant delay.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

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11/069,635 METHOD AND APPARATUS FOR A FOUR-WAY HASH TABLE

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Patent Term Adjustment

Filing or 371(c) Date:	02-28-2005	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	941
A Delays:	941	PTO Manual Adjustments:	91
B Delays:	0	Applicant Delays:	95
C Delays:	0	Total PTA Adjustments:	937

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
87	06-16-2011	Adjustment of PTA Calculation by PTO	91		0
77	11-05-2010	Mail Notice of Allowance			0
76	11-04-2010	Issue Revision Completed			0
75	11-02-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
74	11-02-2010	Document Verification			0
73	11-02-2010	Notice of Allowance Data Verification Completed			0
72	11-02-2010	Allowability Notice			0
71	10-11-2010	Information Disclosure Statement considered			0
70	10-11-2010	Information Disclosure Statement (IDS) Filed			0
69	10-13-2010	Date Forwarded to Examiner			0
68	10-11-2010	Amendment Submitted/Entered with Filing of CPA/RCE			0
67	10-11-2010	Request for Continued Examination (RCE)		2	58
66	10-13-2010	Disposal for a RCE / CPA / R129			0
65	10-11-2010	Information Disclosure Statement (IDS) Filed			0
64	10-11-2010	Workflow - Request for RCE - Begin			0
63	09-01-2010	Finished Initial Data Capture			0
62	07-22-2010	Correspondence Address Change			0
61	07-12-2010	Export to Initial Data Capture			0
60	07-15-2010	Change in Power of Attorney (May Include Associate POA)			0
59	07-14-2010	Correspondence Address Change			0

58	07-09-2010	Mail Notice of Allowance		0
57	07-07-2010	Issue Revision Completed		0
56	07-07-2010	Document Verification		0
55	07-07-2010	Notice of Allowance Data Verification Completed		0
54	07-07-2010	Case Docketed to Examiner in GAU		0
53	07-06-2010	Allowability Notice		0
52	07-02-2010	Date Forwarded to Examiner		0
51	06-28-2010	Response after Non-Final Action		0
50	05-04-2010	Miscellaneous Incoming Letter		0
49	04-09-2010	Paralegal TD Accepted		0
48	04-09-2010	Paralegal TD Accepted		0
47	03-19-2010	Terminal Disclaimer Filed	91	41
46	03-19-2010	Terminal Disclaimer Filed		0
45	04-06-2010	Mail Non-Final Rejection		0
44	03-29-2010	Non-Final Rejection		0
43	03-19-2010	Examiner Interview Summary Record (PTOL - 413)		0
42	01-15-2010	Date Forwarded to Examiner		0
41	12-18-2009	Response after Non-Final Action		0
40	10-13-2009	Mail Non-Final Rejection		0
39	10-13-2009	Non-Final Rejection		0
38	10-06-2009	Case Docketed to Examiner in GAU		0
37	07-16-2009	Miscellaneous Incoming Letter		0
36	08-10-2009	Date Forwarded to Examiner		0
35	06-17-2009	Supplemental Response		0
34	08-06-2009	Date Forwarded to Examiner		0
33	06-16-2009	Response after Non-Final Action		0
32	06-18-2009	Mail Non-Final Rejection		0
31	06-17-2009	Non-Final Rejection		0
30	06-16-2009	Examiner Interview Summary Record (PTOL - 413)		0
29	04-07-2009	Date Forwarded to Examiner		0
28	02-26-2009	Response after Non-Final Action	2	26

27	02-26-2009	Request for Extension of Time - Granted		0
26	11-24-2008	Mail Non-Final Rejection	941	-1
25	11-20-2008	Non-Final Rejection		0
21	04-11-2005	Information Disclosure Statement considered		0
19	10-04-2008	Case Docketed to Examiner in GAU		0
18	09-10-2008	Case Docketed to Examiner in GAU		0
17	06-16-2008	Correspondence Address Change		0
16	10-24-2007	Case Docketed to Examiner in GAU		0
15	06-26-2007	Case Docketed to Examiner in GAU		0
14	03-22-2006	Case Docketed to Examiner in GAU		0
13	01-27-2006	Case Docketed to Examiner in GAU		0
12	05-27-2005	IFW TSS Processing by Tech Center Complete		0
11	05-27-2005	Case Docketed to Examiner in GAU		0
10	04-11-2005	Reference capture on IDS		0
9	05-02-2005	Preliminary Amendment		0
8.7	04-11-2005	Information Disclosure Statement (IDS) Filed		0
8	04-11-2005	Information Disclosure Statement (IDS) Filed		0
7	03-25-2005	Application Return from OIPE		0
6	03-25-2005	Application Return TO OIPE		0
5	03-25-2005	Application Dispatched from OIPE		0
4	03-25-2005	Application Is Now Complete		0
3	03-18-2005	Cleared by OIPE CSR		0
2	03-14-2005	IFW Scan & PACR Auto Security Review		0
1	02-28-2005	Initial Exam Team nn		0

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- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC) .*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.*

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

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TERRACE EXECUTIVE CENTER, COURT C
ONE SOUTH 376 SUMMIT AVENUE
OAKBROOK TERRACE, IL 60181

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of :
Kenichi TERAO :
Application No. 11/069,774 :
Filed: March 1, 2005 :
Attorney Docket No. **10007-2-50** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 20, 2008, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 21, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply, unless previously filed; (**2**) the petition fee as set forth in 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (**1**) a proper reply.

It is noted that an amendment was included with the petition filed November 17, 2010. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required under 37 CFR 1.17 (b)), and amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53 (b). See MPEP 711.03 (c)(II)(A)(2).

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 Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

Attachment: PTOL-303 Advisory Action before the Filing of an Appeal Brief

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/069,774	Applicant(s) TERAO, KENICHI	
	Examiner RYAN J. SEVERSON	Art Unit 3731	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-8*.
   Claim(s) withdrawn from consideration: *9 and 10*.

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.

/Ryan J Severson/
Examiner, Art Unit 3731

Continuation of 3. NOTE:

New independent claim 11 has replaced independent claim 1 and includes many new limitations that were not presented in claim 1. Further, some limitations from previous claim 1 were not carried into claim 11. Therefore, the scope of claim 11 is significantly different than the scope of previous claim 1. Since claim 11 has not to this point been examined on the merits, an indication of allowability or that the amendments define over the prior art from the previous rejection can not be made. Further search and consideration is required in response to the amendments.

Further, Examiner notes new claims 12-15 have been presented without cancelling a corresponding number of previously rejected claims.

Continuation of 13. Other: Examiner notes the amendments discussed above were filed on 11/17/2010 in conjunction with a petition to revive this abandoned application. The notice of abandonment was mailed 7/2/2009.

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ONE SOUTH 376 SUMMIT AVENUE
OAKBROOK TERRACE IL 60181

MAILED

NOV 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Kenichi Terao	:	
Application No. 11/069,774	:	DECISION ON PETITION
Filed: March 1, 2005	:	
Attorney Docket No. 10007-2-50	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2011 with a certificate of mailing date of October 20, 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, February 20, 2008 and the Notice of Non-Compliant Amendment mailed November 10, 2008. The final Office action set a shortened statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on August 21, 2008. A Notice of Abandonment was mailed July 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00 (previously submitted November 17, 2010); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3731 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7306055	2007-12-11	11069783	2005-03-01	1318.004

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	/WBUSKOP/	Date (YYYY-MM-DD)	2012-04-19
Name	Wendy Buskop	Registration Number	32202

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. 7306055
Issue Date: December 11,2007
Application No. 11069783
Filed: March 1,2005
Attorney Docket No. 1318.04

:
: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
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In re Patent No. 7308953
Issue Date: December 18,2007
Application No. 11069787
Filed: March 1,2005
Attorney Docket No. 1318.01A

:
: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.

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)
7308953	2007-12-18	11069787	2005-03-01	1318.001A

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WBUSKOP/	Date (YYYY-MM-DD)	2012-04-19
Name	Wendy Buskop	Registration Number	32202

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. 7,553,426 Issue Date: June 30, 2009 Appl No.: 11/069,874 Filed: March 01, 2005 For: Correction of Inventorship	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed September 13, 2011 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.

/Nadine Norton/

Nadine Norton
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Kunzler Needham Massey & Thorpe
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DEC 14 2010
OFFICE OF PETITIONS

IV - SUITER SWANTZ PC LLO
14301 FNB PARKWAY , SUITE 220
OMAHA NE 68154

In re Patent of Jung et al.	:	DECISION ON REQUEST
Patent No. 7,774,275	:	FOR RECONSIDERATION OF
Issue Date: August 10, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/069,905	:	and
Filed: February 28, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 0404-003-079D-000000	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 12, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-nine (1029) 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 twenty-nine (1029) days is **granted to the extent indicated herein**.

On August 10, 2010, the above-identified application matured into U.S. Patent No. 7,774,275. The instant request for reconsideration filed October 12, 2010 was timely filed, October 10, 2010 being a Sunday and October 11, 2010 being a federal holiday, within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 895 days.

Patentees argue that the Office failed to properly calculate the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). The Office concurs with patentees' assertion that the maximum B delay period is 894 days and begins on February 29, 2008, which is one day after three

years after the filing of the application on February 28, 2005, and ends on August 10, 2010, when the patent issued. The Office concurs that 251 days of delay under 35 U.S.C. 154(b)(1)(A) (hereinafter, "A delay") overlap with the period of B delay.

However, patentees' calculation of the B delay does not take into consideration the excluded appellate period. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 92 day period beginning on August 17, 2009, the date the Notice of Appeal was filed, and ending on November 16, 2009, the date the Office mailed a Notice of Allowance and Fee(s) Due. Excluding the 92 days consumed by appellate review and the overlapping period of A delay and B delay results in a period of B delay of 551 days (892 - 251 - 92).

A review of the PTA calculations for this application reveals another reduction pursuant to 37 CFR 1.704(c)(10).

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

A Notice of Allowance was mailed on November 16, 2009. On February 8, 2010, applicants filed a petition under 37 CFR 1.48(a). On July 13, 2010, the Office mailed a communication granting the petition. Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 126 days. The delay begins on February 9, 2010, the date the petition was filed, and ends on July 13, 2010, the date the communication granting the petition was filed. However, a portion of the period (February 9, 2010 to March 9, 2010) overlaps with the 37 CFR 1.704(c)(10) reduction for the IDS filed on January 25,

2010. Therefore, a period of reduction of 126 days, from March 10, 2010, to July 13, 2010 is being entered in connection with the filing of the Petition under 37 CFR 1.48(a) on February 9, 2010.

The total applicant delay is 516 (66 + 4 + 276 + 44 + 126) days.

In light thereof, the correct patent term adjustment is 811 days, which is the sum of 776 days of A delay and 551 days of B Delay, reduced by 516 days for Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 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 change of address 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 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 eleven (811)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: DALE COOK
11235 S.E. 6TH STREET, SUITE 200
BELLEVUE, WA 98004

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,774,275 B2

DATED : **August 10, 2010** **DRAFT**

INVENTOR(S) : Jung et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 895 days

Delete the phrase "by 895 days" and insert – by 811 days--

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 10-040	
Application Number: 11/069,961	Filing Date (or 371(b) or (f) Date): March 3, 2005
Patent Number: 7,668,919	Issue Date: February 23, 2010
First Named Inventor: Brenda Gates Spielman	
Title: Scalable IP-Based Notification Architecture for Unified Messaging	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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LEON R TURKEVICH
2000 M STREET NW
7TH FLOOR
WASHINGTON, DC 200363307

Mail Date: 08/13/2010

Applicant	: Brenda Gates Spielman	: DECISION ON REQUEST FOR
Patent Number	: 7668919	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/069,961	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1392** 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.

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
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: R2180.0244/P244	Patent Number: 7,667,876
Filing Date (or 371(b) or (f) Date): 03-03-2005	Issue Date: 02-23-2010
First Named Inventor: Takashi Saitoh	
Title: GENERATING A NORMALIZED IMAGE FROM AN ORIGINAL IMAGE	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date August 20, 2010
Name (Print/Typed) Thomas J. D'Amico	Registration Number 28,371

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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 09/08/2010

Applicant	: Takashi Saitoh	: DECISION ON REQUEST FOR
Patent Number	: 7667876	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/070,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1392** 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 : 02/17/12

TO SPE OF : ART UNIT: 2162 Attn: BREENE JOHN E (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/070268 Patent No.: 7657520

CofC mailroom date: 01/27/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check References Cited
For the requested correction on PTO/SB/44 Form
(There is a missing 892 in MADRAS and eDAN)

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.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/John Breene/ SPE **2162**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

DAC/IFW

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

OCT 05 2010
PATENT & TRADEMARK OFFICE

PTO/SB/131 (02-10)
Approved for use through 08/31/2013. 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: 27441/041	
Application Number: 11/070,329	Filing Date (or 371(b) or (f) Date): 03/01/2005
Patent Number: 7,658,826	Issue Date: 02/09/2010
First Named Inventor: Michael D. Buck	
Title: REFERENCE ELECTRODE	

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 Terrance Fitzgerald	Date 9-30-10
Name (Print/Typed) Terrance W. Fitzgerald	Registration Number 66263

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

COCHRAN FREUND & YOUNG LLC
2026 CARIBOU DR
SUITE 201
FORT COLLINS, CO 80525

Mail Date: 10/20/2010

Applicant	: Michael D. Buck	: DECISION ON REQUEST FOR
Patent Number	: 7658826	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/070,329	: OF WYETH
Filed	: 03/01/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
AUG 27 2010
OFFICE OF PETITIONS

ROBERT M. MCDERMOTT, ESQ.
1824 FEDERAL FARM ROAD
MONTROSS VA 22520

In re Application of	:	
Walter HOLEMMANS	:	
Application No. 11/070,343	:	DECISION ON PETITION
Filed: March 02, 2005	:	
Attorney Docket No. **PS040225**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 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 February 13, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 13, 2009. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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 No. 12/471,503.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/5/2010

TO SPE OF : ART UNIT 1792 Timothy Meeks (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/070390 Patent No.: 7611746

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

1715
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED
SEP 22 2010
OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

In re Patent No.: 7,591,839	:	
Issue Date: September 22, 2009	:	
Application No.: 11/070,421	:	DECISION ON PETITION
Filed: March 2, 2005	:	
Attorney Docket No.: 56753/B884	:	

This is a decision on the petition under 37 CFR 1.182, filed July 22, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

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 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Ollie Person, RSQ, 9th Floor, Room D30-A (Fax No. 571-270-9764)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110426

DATE : March 15, 2011

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction on Patent No.: 7096896

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:

/JUSTINE R YU/
Supervisory Patent Examiner.Art Unit 3771

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)
7,066,227	2006-06-27	11/070,637	2005-03-01	STEVE-001DVA

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	/bruce e. hayden reg# 35,539/	Date (YYYY-MM-DD)	2010-11-06
Name	Bruce E. Hayden	Registration Number	35539

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. 7066227
Issue Date: June 27,2006
Application No. 11070637
Filed: March 1,2005
Attorney Docket No. STEVE-001DVA

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed November 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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 23 2010

OFFICE OF PETITIONS

DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303-2248

In re Application of
Keith Jarrett, et al.
Application No. 11/070,682
Filed: March 1, 2005
Attorney Docket No.: 356931-991100

ON PETITION

This is a decision in response to the petition, filed July 22, 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 submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). A Notice of Abandonment was mailed on April 22, 2010. On July 22, 2010, the present petition was filed.

Petitioner requests that the Office withdraw the holding of abandonment since "Applicant did in fact timely file an Appeal Brief (filed herewith) within 7 months after the Notice of Appeal filing on September 4, 2009..." A copy of the response purportedly timely filed, including evidence of its filing, was not provided with the present petition.

A review of the written record fails to disclose a response filed on or before November 4, 2009 or within the maximum extendable period of April 5. 2010 (April 4, 2010 was a Saturday). Without convincing evidence that the response was, in fact, timely filed, the petition to withdraw the holding of abandonment cannot be granted.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which

revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the requisite petition fee, as well as the required reply if such has not been provided.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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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KYOCERA INTERNATIONAL INC.
INTELLECTUAL PROPERY DEPARTMENT
P.O. BOX 928289
SAN DIEGO CA 92192

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Steer, et al.	:	
Application No. 11/070,709	:	DECISION
Filed/Deposited: 1 March, 2005	:	
Attorney Docket No. UTL 00296	:	

This is a decision on the petition filed on 19 July, 2010, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 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 and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 28 December, 2009, with reply due under a non-extendable deadline on or before 28 January, 2010.

The application went abandoned by operation of law after midnight 28 January, 2010.

It appears that Petitioner filed a Request for Status on 9 July, 2010.

The Office mailed the Notice of Abandonment on 9 July, 2010.

On 19 July, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.181: Therein Petitioner averred neither that he had not received the Office action nor that he replied timely—rather, Petitioner averred that no reply was required. Specifically, Petitioner averred that:

- On 28 December, the Examiner gave the Petitioner one month (not less than 30 days) to cancel the newly amended claims (22-23) as directed to a non-elected invention and accept the allowed claims—with the statement that:

  > Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. *** Prosecution on the merits is closed *** *ex parte Quayle* *** . (Emphasis supplied.)

- Petitioner observed that he need not reply because if he did not reply, the Examiner would enter an Examiner's Amendment and pass the application to issue.

- Instead, however, the Examiner Noticed the application for abandonment.

The showing pursuant to 37 C.F.R. §1.181 consistent with 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]

***

Alternatively:

***

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

[1] *See*: MPEP §711.03(c) (I)(A).

> 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]
>
> ***

However, in this matter, it was neither a matter of Petitioner not receiving or not timely replying to the Office action.

Rather, in the 28 December, 2009, Office action the Examiner gave the Petitioner a choice not to reply, and the Petitioner accepted that choice.

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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[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. §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

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 and when it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 9 July, 2010, Notice of Abandonment hereby is **vacated**.

The instant application is released to Technology Center/AU 2618 for further processing in due course, to include the Examiner's Amendment as indicated in the 28 December, 2009, Office action.

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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).

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[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

BARNES & THORNBURG LLP
P.O. Box 2786
CHICAGO IL 60690-2786

MAILED
NOV 23 2010
OFFICE OF PETITIONS

In re Patent No. 7,056,139 :
Issued: June 6, 2006 :
Application No. 11/070,755 : ON PETITION
Filed: March 2, 2005 :
Attorney Docket No: 49072-109211 :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed October 1, 2010 under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
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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CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON FL 33487

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Gorzela, et al.	:	
Application No. 11/070,765	:	DECISION ON PETITION
Filed: March 2, 2005	:	
Attorney Docket No. GRIFF-49873	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed June 18, 2009, which set a three (3) month shortened statutory period for reply. The application became abandoned on September 19, 2009. A Notice of Abandonment was mailed April 2, 2011.

The Notice of Appeal, filed May 4, 2011, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision. It is noted that an appeal brief and fee were filed May 4, 2011.

The application file is being forwarded to Technology Center 2400, GAU 2456 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. Mclaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD IL 61101

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Jim Anderson	:	
Application No. 11/070,823	:	DECISION ON PETITION
Filed: March 2, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 21, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 21, 2010. Accordingly, the date of abandonment of this application is January 22, 2011. A Notice of Abandonment was mailed on March 18, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
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: 1008-027US01/Z04138	Patent Number: 7,672,384
Filing Date (or 371(b) or (f) Date): 02-Mar-2005	Issue Date: 02-Mar-2010
First Named Inventor: Georgios B. Giannakis et al.	
Title: BANDWIDTH AND POWER EFFICIENT MULTICARRIER MULTIPLE 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	Date August 3, 2010
Name (Print/Typed) Raymond R. Berdie	Registration Number 50,769

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 09/13/2010

Applicant	: Georgios B. Giannakis	: DECISION ON REQUEST FOR
Patent Number	: 7672384	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/070,855	: OF WYETH
Filed	: 03/02/2005	:
		:

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.

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	11070863
Filing Date	01-Mar-2005
First Named Inventor	Robert Vaughan
Art Unit	3773
Examiner Name	MARK MASHACK
Attorney Docket Number	USGINZ03760
Title	Tissue manipulation and securement system

◉ 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 :

Robert Vaughan

Application No : 11070863

Filed : 01-Mar-2005

Attorney Docket No : USGINZ03760

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

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte AZAM ANWAR et al

Application 11/071,006
Technology Center 3700

DECISION ON PETITION

This is a decision on the "Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed November 30, 2009 ("Renewed Petition").

FINDINGS

1. On October 8, 2008, Appellants filed an Appeal Brief.

2. On October 31, 2008, the Patent Appeals Center entered a Notification of Non-Compliant Appeal Brief.

3. On November 24, 2008, Appellants filed a First Supplemental Appeal Brief.

4. On March 13, 2009, the Examiner entered a Communication Re: Appeal advising Appellants that the First Supplemental Appeal Brief was defective and holding that the application was abandoned.

5. On March 20, 2009, Appellants filed a First Petition for Revival of an Application for Patent Abandoned Unintentionally and a Second Supplemental Appeal Brief.

6. On November 24, 2009, the Office of Petitions dismissed the First Petition for Revival because the Second Supplemental Appeal Brief was missing several required sections.

7. On November 30, 2009, Appellants filed the present Renewed Petition and a Third Supplemental Appeal Brief.

8. The Third Supplemental Appeal Brief has been found to comply with 37 C.F.R. § 41.37.

9. Further, the Renewed Petition includes all of the required elements as set forth in 37 C.F.R. § 1.137(b), specifically:

> (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.

DISCUSSION

As indicated, Appellants have complied with all of the requirements of Rule 1.137(b) for reviving an application abandoned unintentionally.

DECISION

In view of the foregoing, the Renewed Petition is GRANTED. The Third Supplemental Appeal Brief has been entered and the appeal will be returned to the Examiner for preparation of the Examiner's Answer.

Michael R. Fleming
Chief Administrative Patent Judge

Patent Capital Group
6119 McCommas Blvd.
Dallas, TX 75214

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Alexandria, VA 22313-1450
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MAILED

MAR 28 2011

OFFICE OF PETITIONS

IP Authority, LLC
Ramraj Soundararajan
4821A Eisenhower Ave
Alexandria VA 22304

In re Patent No. 7,254,137	:	
Issued: August 7, 2007	:	
Application No.: 11/071,233	:	NOTICE
Filed: March 4, 2005	:	
Attorney Docket No: **ARG-3051004**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/071,459	03/04/2005	Naokazu Tanahashi	006777.00008	5943

30755 7590 06/01/2011
BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER
SANDERS, HOWARD J

ART UNIT	PAPER NUMBER
3653	

MAIL DATE	DELIVERY MODE
06/01/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUN - 1 2011

BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

In re Application of	:	
Tanahashi et al	:	DECISION ON PETITION
Application No. 11/071,459	:	UNDER 37 CFR §1.181
Filed: March 4, 2005	:	
For: DISCHARGE ROLLER, CONVEYING	:	
APPARATUS, AND RECORDING	:	
APPARATUS	:	

This is a decision on applicants' petition under 37 CFR 1.181 filed July 24, 2009 to request entry of the replacement drawings on Figures 4, 5A and 5B submitted on June 26, 2009.

The petition is **GRANTED.**

The record reflects that on February 13, 2008 a non-final Office action was mailed setting forth a rejection of the pending claims under 35 USC 102(b). On May 13, 2008, applicants filed a response to the non-final Office action amending the claims. This amendment was subsequently denied entry for failing to meet the requirements of 37 CFR 1.121 due to improper status identifiers. On June 30, 2008 applicants filed a response, in which independent claims 1, 18, and 21 were amended to include "a plurality of spur rollers" into the claims. On October 28, 2008 a final Office action was mailed with a drawing objection under 37 CFR 1.83(a) indicating that the spur rollers must be shown in the drawings. On January 29, 2009, applicants responded in an after-final amendment that the spur rollers were shown as element 5c in Figure 3 and requested withdrawal of the objection. In addition, applicants responded with reasons for withdrawal of the rejections under 35 USC 102(b). On February 24, 2009 a final Office action was mailed that withdrew the previous final Office action based on applicants' arguments against the rejections, but maintained the drawing objection. The examiner indicated that "the spur rollers contacting the specified portion of the roller portion of claim 1 must be shown." On June 26, 2009, applicants submitted an after-final amendment with replacement sheets for Figure 4, Figure 5A, and Figure 5B, in which a plurality of spur rollers (5c) were shown in each figure. On July 15, 2009 an advisory action was mailed stating that the proposed amendments to the drawing contain new matter when depicting the relationship of the spurs to the discharge rollers. Applicants subsequently filed a petition on July 24, 2010 to request entry of Figure 4, Figure 5A, and Figure 5B. A two month extension of time has been charged to applicants' deposit account.

Applicants argue that the features shown in Figure 4, Figure 5A, and Figure 5B are supported in lines 3-9 of page 10 of the application as originally filed as well as in Figure 3. Lines 3-9 of page 10 describe how the spur rollers are position above and abut against the sheet discharge roller 5a "Also, plural spur rollers 5c, which abut against the sheet discharge roller 5a and rotate, are disposed above the sheet discharge roller 5a. The recording medium P, on which the data is recorded, is conveyed in the discharge direction H and discharged onto the discharge tray 5b while the recording medium P is sandwiched by the sheet discharge roller 5a and the spur rollers 5c." Applicants note that this is shown in Figure 3. Further, applicants note that original claim 20 recites that the spur rollers 5c face the discharge roller and that the discharge roller 5a and the spur rollers 5c operate in conjunction with each other to discharge the sheet member. For these reasons, applicants argue that the replacement Figure 4, Figure 5A, and Figure 5B are consistent with the specification and therefore do not constitute new matter.

MPEP 608.04(a) sets forth that matter not in the original specification, claims, or drawings is usually new matter. In the instant application, page 10 of the specification sets forth that there are a plurality of spur rollers 5c which abut against the sheet discharge roller 5a and rotate. Figures 3 illustrates the structure of the device showing a plurality of spur rollers 5c, which abut against the discharge roller 5a. Further, Figure 3 shows that the spur rollers 5c are in contact with the discharge roller 5a between the support members 51, and 52 as recited in the claims. When the description of the device is taken in conjunction with that which is illustrated in Figure 3 one of ordinary skill in the art would know the location and operation of the spur rollers 5c relative to the discharge roller 5a and supporting members 51, and 52. Therefore, applicants' arguments are persuasive in that the replacement drawings are consistent with the specification. All holdings of the replacement drawings as new matter made in the February 24, 2009 final Office action and the July 15, 2009 advisory action are hereby **WITHDRAWN**. The replacement drawings on Figures 4, 5A and 5B submitted on June 26, 2009 will be entered.

The application will be forwarded to the examiner for further action on the merits consistent with the decision herein.

Any question regarding this decision should be directed to Supervisory Patent Examiner Stefanos Karmis at (571) 272-6744.

David Talbott, Director
Patent Technology Center 3600
Telephone No.: (517) 272-5150

SK: 4/14/2011
LM

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ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO, CA 94304

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of
Chris Allen Broka, et al.
Application No. 11/071,555
Filed: March 3, 2005
Attorney Docket No. R0190B-REG

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before May 22, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 23, 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).

The application became abandoned for failure to timely pay the issue and publication fee. 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.

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(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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Copy of Notice of Allowance previously mailed February 22, 2010.

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOTICE OF ALLOWANCE AND FEE(S) DUE

24372 7590 02/22/2010

ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO, CA 94304

EXAMINER
RAO, DEEPAK R

ART UNIT	PAPER NUMBER
1624	

DATE MAILED: 02/22/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/071,555	03/03/2005	Chris Allen Broka	R0190B-REG	5335

TITLE OF INVENTION: DIAMINOPYRIMIDINES AS P2X3 AND P2X2/3 ANTAGONISTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	05/24/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

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PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s). to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

24372 7590 02/22/2010

ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO, CA 94304

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/071,555	03/03/2005	Chris Allen Broka	R0190B-REG	5335

TITLE OF INVENTION: DIAMINOPYRIMIDINES AS P2X3 AND P2X2/3 ANTAGONISTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	05/24/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
RAO, DEEPAK R	1624	514-269000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1_____

2_____

3_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/071,555	03/03/2005	Chris Allen Broka	R0190B-REG	5335

EXAMINER
RAO, DEEPAK R

ART UNIT	PAPER NUMBER
1624	

DATE MAILED: 02/22/2010

24372 7590 02/22/2010
ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO, CA 94304

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 568 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 568 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

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Notice of Allowability	Application No.	Applicant(s)
	11/071,555	BROKA ET AL.
	Examiner	Art Unit
	Deepak Rao	1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the Request for Continued Examination (RCE) filed on December 15, 2009*.

2. ☒ The allowed claim(s) is/are *7-8, 10, 12, 15, 17-18, 22, 25, 31-32, 34-52*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 20091215
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Deepak Rao/
Primary Examiner
Art Unit 1624

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GENENTECH, INC.
PATENT LAW DEPT. M/S 49
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080-4990

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Chris Allen Broka, et al.	:	
Application No. 11/071,555	:	
Filed: March 3, 2005	:	
Attorney Docket No. R0190B-REG	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 4, 2010, to revive the above-identified application.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 22, 2010 as required by the Notice of Allowance and Fee(s) Due, mailed March 5, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Since the $1620 petition fee submitted with the petition on October 4, 2010 is considered a duplicate, the fee is deemed unnecessary and will be credited back to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being forwarded to the Office of Data Management for processing in to a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUN 23 2011
OFFICE OF PETITIONS

MICHAEL R. FRISCIA
MCCARTER & ENGLISH, LLP
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

In re Application of	:	
MARLOWE	:	
Application No. 11/071,667	:	DECISION ON PETITION
Filed: March 3, 2005	:	TO WITHDRAW
Attorney Docket No. 99879/00003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 6, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Michael R. Friscia on behalf of the attorneys of record associated with Customer No. 27614.

The attorneys of record associated with Customer No. 27614 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address copied below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: IRA M. MARLOWE
BLITZSAFE OF AMERICA, INC.,
33 HONECK STREET
ENGLEWOOD NJ 07631

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
11/071,667	03/03/2005	Ira M. Marlowe	99879/00003

CONFIRMATION NO. 3531

POWER OF ATTORNEY NOTICE

OC000000048295855

Michael R. Friscia
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

Date Mailed: 06/20/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/06/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

MAILED
JUN 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Russ Ross, et al.	:	
Application No. 11/071,706	:	DECISION ON PETITION
Filed: March 3, 2005	:	
Attorney Docket No. PA5552US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 9, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 9, 2011. Accordingly, the date of abandonment of this application is May 10, 2011. The Notice of Abandonment was mailed May 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management or processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 7/26/10

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/071741 Patent No.: 7445924B2

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: ____

/Zachariah Lucas/ 1648

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Alexandria, VA 22313-1450
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JANSSON SHUPE & MUNGER LTD.
245 MAIN STREET
RACINE WI 53403

APR 19 2011

In re Application of
HOLMS, DEBRA A. et al. :
Application No.: 11/071,827 : DECISION ON
Filing or 371(c) Date: March 3, 2005 : PETITION
Attorney Docket Number: BAB-102US :

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on January 28, 2011.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed October 15, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on January 28, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on January 18, 2011. Petitioner is in compliance with 37 CFR 1.8(b) in that (1) the United States Patent and Trademark Office was promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with certificate of mailing thereon has been submitted, and (3) included a statement which attests to the previous timely mailing.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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P.O. Box 1450
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THE FARRELL LAW FIRM, P.C.
290 BROADHOLLOW ROAD
SUITE 210E
MELVILLE NY 11747

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Reissue Application of
Jae-Duk Yang
Application No. 11/071,897
Filed: March 3, 2005
Attorney Docket No. 678-413 RE
(P8984-US-RE)

ON PETITION

This is a decision on the petition under 37 CFR 1.47(b) filed November 30, 2010, which is taken as a petition 37 CFR 1.183 requesting waiver of 37 CFR §§ 1.67, 1.172, and 1.175 [1] which require that the supplemental reissue declaration of November 30, 2010, have been executed by the sole inventor.

The petition is **DISMISSED**.

BACKGROUND

1. U.S. Patent No. 6,529,742 issued to Jae-Duk Yang on March 4, 2003.

2. A broadening reissue application was filed for the '742 patent on March 3, 2005, and it was assigned application number 11/071,897.

3. During the prosecution of the parent application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On November 30, 2010, applicant filed a petition under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

5. The petition was accompanied by a "Supplemental Reissue Application

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 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 CFR 1.67. See MPEP 603.

Declaration by the Inventor," signed November 29, 2010, by Gee Sung Choi, President and CEO of Samsung Electronics Co., Ltd. and a duly authorized officer of the assignee.

6. The petition proffered a showing, including a supporting declaration of Gee Sung Choi, President and CEO of Samsung Electronics Co., Ltd., to establish that the inventor was unavailable to sign the supplemental reissue declaration. The Gee Sung Choi declaration and the discussion in the petition, set forth (a) the efforts made on behalf of the assignee to contact the inventor and obtain the requisite signature on the supplemental declaration, and (b) the lack of success of such efforts.

DECISION

The provisions of 35 U.S.C. 251, which is directed to reissue of patents, do not address the signature requirements of a declaration or oath in reissue. As to the reissue regulations, 37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by the inventor(s). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signatures of the inventors. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

In the present instance, the supplemental declaration is not signed by the inventor, but is rather signed by the assignee. 37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested, via the present petition, a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the inventors.

The instant petition provides an appropriate and sufficient showing that the inventor is unavailable to sign the supplemental declaration. The petition also includes a statement under 37 CFR 3.73(b) which establishes that the named inventor has

assigned his entire right, title and interest in the application (and the patent for which reissue is requested) to SamSung Electronics Company Lt'd., [2] and a statement that absent a waiver of the rules, the assignee will be unable to obtain a reissue patent for the instant broadening reissue application, and will be irreparably damaged.

However, a review of the record reveals that a Reissue Application Declaration By the Inventor signed by the assignee on behalf of the non-signing inventor has been submitted, which the assignee has signed as the inventor (such is not accurate). Thus, the rules cannot be waived and the Supplemental Reissue Application Declaration By the Inventor cannot be accepted. A Reissue Application Declaration By the Assignee form PTO/SB/52 signed by the assignee on behalf of the non-signing inventor is to be submitted.

CONCLUSION

1. The instant petition fails to include a Reissue Application Declaration By the Assignee.

2. The Reissue Application Declaration by the Inventor signed by the assignee and submitted with the present petition <u>will not be accepted</u> as though it was signed by the inventor.

3. The provisions of 37 CFR 1.175(b)(1), and 37 CFR 1.172 therefore cannot be waived and the Reissue Application Declaration by the Inventor signed by the assignee submitted with the present petition <u>is not accepted</u> as though it was signed by joint inventor.

4. Any petition provided in response to this decision must be accompanied by an appropriate Reissue Application: Consent of Assignee; Statement of Non-Assignment.

Any renewed petition in response to this decision must be filed within **TWO (2) MONTHS** of the mailing date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

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[2] This assignment extinguished any ownership rights that the inventors might have had in the patent or in the present reissue application. The assignment of the entire right, title, and interest, passes both legal and equitable title. *See Wende v. Horine*, 191 F. 620, 621 (C.C.N.D. Ill. 1911). Further, the assignment of the patent carries forward to the reissue application. See MPEP 201.12. The inventors, as the assignors of their entire interest, have no right to prosecute the reissue application, and the assignee is free to deal with the patent and this reissue application as it wills. *See Garfield v. Western Electric Co.*, 298 F. 659 (S.D.N.Y. 1924).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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MELVILLE NY 11747

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JUN 02 2011

OFFICE OF PETITIONS

In re Reissue Application of
Jae-Duk Yang
Application No. 11/071,897
Filed: March 3, 2005
Attorney Docket No. 678-413 RE
(P8984-US-RE)

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.183 filed April 18, 2011, which is taken as a petition requesting waiver of 37 CFR §§ 1.67, 1.172, and 1.175 which would otherwise require that the supplemental reissue declaration of November 30, 2010, have been executed by the sole inventor.

The petition is **GRANTED**.

BACKGROUND

1. U.S. Patent No. 6,529,742 issued to Jae-Duk Yang on March 4, 2003.

2. A broadening reissue application was filed for the '742 patent on March 3, 2005, and it was assigned application number 11/071,897.

3. During the prosecution of the parent application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On November 30, 2010, applicant filed a petition under 37 CFR 1.47(b)[1] which was treated under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 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 CFR 1.67. See MPEP 603.

5. The petition was accompanied by a "Supplemental Reissue Application Declaration by the Inventor," signed November 29, 2010, by Gee Sung Choi, President and CEO of Samsung Electronics Co., Ltd. and a duly authorized officer of the assignee.

6. The petition proffered a showing, including a supporting declaration of Gee Sung Choi, President and CEO of Samsung Electronics Co., Ltd., to establish that the inventor was unavailable to sign the supplemental reissue declaration. The Gee Sung Choi declaration and the discussion in the petition, set forth (a) the efforts made on behalf of the assignee to contact the inventor and obtain the requisite signature on the supplemental declaration, and (b) the lack of success of such efforts.

7. The petition was dismissed in a decision mailed February 22, 2011, because the Reissue Application Declaration By the Inventor was signed by the assignee on behalf of the non-signing inventor and as the inventor and therefore could not be accepted. Instead, a Reissue Application Declaration By the Assignee form PTO/SB/52 signed by the assignee on behalf of the non-signing inventor was required.

8. The present renewed petition under 37 CFR 1.183 was filed April 18, 2011.

DECISION

37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by the inventor(s). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signatures of the inventors.

Comes now petitioner with a Reissue Application Declaration By the Assignee, form PTO/SB/52, signed by the assignee on behalf of the non-signing inventor accompanied by a Reissue Application: Consent of Assignee; Statement of Non-Assignment and a statement under 37 CFR 3.73(b).

.37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested, via the present petition, a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the inventors.

The instant petition and supporting documentation provide an appropriate and sufficient showing that despite diligent efforts sole inventor Jae-Duk Yang is unavailable to sign the supplemental declaration. Accordingly, the petition under 37 CFR 1.183 is granted, and the rules are hereby waived to the extent that the "Supplemental Reissue Application Declaration" submitted with the present petition will be accepted as though it was signed by the sole inventor as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

CONCLUSION

1. The petition under 37 CFR 1.183 is granted to waive the rules.

2. The provisions of 37 CFR §§ 1.67, 1.172, and 1.175 are hereby waived to the extent that the April 18, 2011, "Supplemental Reissue Application Declaration" submitted with the present petition will be accepted as though it was signed by the sole inventor.

3. Jurisdiction over the present application is being forwarded to Technology Center 2618 for further examination.

4. Any questions regarding this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

5-31-11

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Taylor English Duma LLP
1600 Parkwood Circle, Suite 400
Atlanta GA 30339

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DEC 12 2011

OFFICE OF PETITIONS

In re Application of
Christian Fitzgerald
Application No. 11/071,986
Filed: 03/03/2005
Attorney Docket No. 67609-1010

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 23, 2009, which set a shortened statutory period for reply of three (3) months. Petitioner obtained an extension of time for response within the first month under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 24, 2010. A Notice of Abandonment was mailed on April 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3743 for appropriate action by the Examiner on the reply received on November 30, 2011.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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FEB 10 2011
OFFICE OF PETITIONS

In re Application of :
Thomas D. Nadeau et al :
Application No. 11/072,082 : ON PETITION
Filed: March 4, 2005 :
Attorney Docket No. SYSTEM AND METHODS FOR NETWORK REACHABILITY DETECTION

This is a decision on the petition, filed February 8, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 30, 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 2477 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAR 18 2011
OFFICE OF PETITIONS

In re Application of :
Pence et al. :
Application No. 11/072,090 :
Filed: March 4, 2005 :
Attorney Dkt. No. 008245-3779 :
For: SYSTEM AND METHOD FOR :
PROVIDING COMMUNICATIONS :
SERVICES :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed February 10, 2011. Applicants request that the determination of patent term adjustment be corrected from eight hundred eleven (811) days to one thousand two hundred eighty-seven (1,287) 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. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

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OCT 29 2010
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Smith :
Application No. 11/072,150 : ON APPLICATION FOR
Filed: March 4, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. **16065US01** :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DTERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed October 14, 2010. Applicants request that the determination of patent term adjustment be corrected from two hundred and seventy-six (276) days to four hundred and twenty-three (423) days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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 –

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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.

(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 28, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **dismissed**.

Applicants assert the 1 day reduction to the patent term adjustment for the filing of a response on May 4, 2009, three months and one day after a non-final Office action was mailed on February 3, 2009, was improper. In summary, applicant states that the date that was three months after the mailing of the non-final Office action was Sunday, February 2, 2009, therefore, the filing of the response on Monday February 3, 2009, was timely.

Applicants' argument is not persuasive. Pursuant to 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 1 day, the number of says in the period beginning on the day after the date that is three months after the date of mailing of the non-final Office action, May 4, 2009, and ending on the date the reply was filed, May 4, 2009. The calculation of 1 day of applicant delay is based on the date of receipt of the response in the Office. The Office notes that 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three month grace period, but simply specifies that there is this three month period. Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) does not apply to the three month periods in 35 U.S.C. 154(b)(2)(C)(ii). Accordingly, the reduction to the patent term adjustment of 1 day was warranted and will not be removed.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent. Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be

calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/10

TO SPE OF : ART UNIT 2817 Pascal Robert (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/072378 Patent No.: 7372328

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2817
Art Unit

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United States Patent and Trademark Office
P.O. Box 1450
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ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

In re Application of :
Ballow, et al. :
Application No. 11/072,565 : ON APPLICATION FOR
Filed: March 2, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 10022/626 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed December 16, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is six hundred and forty (640) days, not five hundred and seventy-five (575) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

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, 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].

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 13, 2009.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is six hundred and forty (640) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On September 17, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 575 days. Applicants timely filed the instant application for patent term adjustment[2].

Applicants dispute the reductions to the patent term adjustment of 35 days and 30 days, respectively, entered pursuant to 37 CFR 1.704(c)(8) for the filing of a supplemental amendments on April 30, 2009, and May 20, 2010, after filing replies on March 26, 2009, and April 20, 2010. Applicants maintain that the supplemental amendments were expressly requested by the examiner.

Applicants' argument has been considered and is well taken. A review of the record reveals that the Examiner assigned to the application requested that supplemental amendments filed April 30, 2009, and May 20, 2010, be filed in interviews conducted April 15, 2009, and April 29, 2010, the substance of which were reduced to writing in an Interview Summaries mailed April 20, 2009, and May 3, 2009. Because the Examiner requested the supplemental amendments to be filed, applicants did not fail to

[2] The issue fee was paid on December 16, 2010. Accordingly, applicant timely filed the instant request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.704(b) prior to the payment of the fee set forth in 37 CFR 1.18(e).

engage in reasonable efforts to conclude processing such that entry of a reduction to the patent term adjustment under 37 CFR 1.704(c)(8) would be warranted. Accordingly, the periods of reduction of 35 and 30 days are being removed.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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 the 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) 272-3222.

/Kenya A. McLaughlin/

Kenya A McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11072565 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11072565

Application Filing Date	03/02/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	718
A Delays	718	PTO Manual Adjustment	65
B Delays	0	Applicant Delay (APPL)	143
C Delays	0	Total PTA (days)	640

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
102	01/26/2011		P028	Adjustment of PTA Calculation by PTO	65		0
94	09/17/2010		MN/=.	Mail Notice of Allowance			0
93	09/15/2010		IREV	Issue Revision Completed			0
92	09/15/2010		DVER	Document Verification			0
91	09/15/2010		N/=.	Notice of Allowance Data Verification Completed			0
90	09/13/2010		EX.A	Examiner's Amendment Communication			0
89	09/13/2010		CNTA	Notice of Allowability			0
88	08/03/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
87	08/02/2010		CTFR	Final Rejection			0
85	05/26/2010		FWDX	Date Forwarded to Examiner			0
84	05/20/2010	04/20/2010	SA..	Supplemental Response		30	80
83	05/03/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
81	04/29/2010		FWDX	Date Forwarded to Examiner			0
80	04/20/2010		A...	Response after Non-Final Action			0
82	04/09/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
79	04/08/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
78	04/01/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
76	02/04/2010		MCTNF	Mail Non-Final Rejection			0
75	02/01/2010		CTNF	Non-Final Rejection			0
74	11/17/2009		FWDX	Date Forwarded to Examiner			0
72	11/17/2009		FWDX	Date Forwarded to Examiner			0
70	11/17/2009		ABN9	Disposal for a RCE / CPA / R129			0
73	11/13/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
71	11/13/2009	11/03/2009	RCEX	Request for Continued Examination (RCE)		10	66
69	11/13/2009		XT/G	Request for Extension of Time - Granted			0
68	11/13/2009		BRCE	Workflow - Request for RCE - Begin			0
66	08/03/2009	07/26/2009	MCTFR	Mail Final Rejection (PTOL - 326)	8		61
65	07/31/2009		CTFR	Final Rejection			0
64	05/19/2009		FWDX	Date Forwarded to Examiner			0
62	05/19/2009		FWDX	Date Forwarded to Examiner			0
63	04/30/2009	03/26/2009	SA..	Supplemental Response		35	61
59	04/20/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
58	04/15/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
61	03/26/2009	02/17/2009	A...	Response after Non-Final Action		37	52
60	03/26/2009		XT/G	Request for Extension of Time - Granted			0
52	11/17/2008		MCTNF	Mail Non-Final Rejection			0
51	11/10/2008		CTNF	Non-Final Rejection			0
50	10/06/2008		DOCK	Case Docketed to Examiner in GAU			0
57	10/02/2008		LET.	Miscellaneous Incoming Letter			0
49	09/07/2008		FWDX	Date Forwarded to Examiner			0
46	09/02/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
45	08/19/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
48	08/11/2008	07/11/2008	A...	Response after Non-Final Action		31	40
47	08/11/2008		XT/G	Request for Extension of Time - Granted			0
40	04/11/2008	05/02/2006	MCTNF	Mail Non-Final Rejection	710		-1
39	04/11/2008		CTNF	Non-Final Rejection			0
42	04/07/2008		M844	Information Disclosure Statement (IDS) Filed			0
38	04/07/2008		IDSC	Information Disclosure Statement considered			0
37	04/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
31	04/01/2008		DOCK	Case Docketed to Examiner in GAU			0
28	02/11/2008		IDSC	Information Disclosure Statement considered			0
21	02/11/2008		RCAP	Reference capture on IDS			0
20	02/11/2008		M844	Information Disclosure Statement (IDS) Filed			0
18	02/11/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
17	02/11/2008		DOCK	Case Docketed to Examiner in GAU			0

16	11/29/2007	DOCK	Case Docketed to Examiner in GAU	0
30	05/25/2007	IDSC	Information Disclosure Statement considered	0
15	05/25/2007	RCAP	Reference capture on IDS	0
14	05/25/2007	M844	Information Disclosure Statement (IDS) Filed	0
13	05/25/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
11	11/13/2006	DOCK	Case Docketed to Examiner in GAU	0
29	11/06/2006	IDSC	Information Disclosure Statement considered	0
12.7	11/06/2006	M844	Information Disclosure Statement (IDS) Filed	0
12	11/06/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
10	11/06/2006	DOCK	Case Docketed to Examiner in GAU	0
9	08/22/2006	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
8	08/22/2006	DOCK	Case Docketed to Examiner in GAU	0
7	06/15/2005	OIPE	Application Dispatched from OIPE	0
6	06/15/2005	COMP	Application Is Now Complete	0
5	06/03/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
4	03/30/2005	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	03/23/2005	L194	Cleared by OIPE CSR	0
2	03/18/2005	SCAN	IFW Scan & PACR Auto Security Review	0
1	03/02/2005	IEXX	Initial Exam Team nn	0

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ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Ballow et al.	:	DECISION ON APPLICATION
Application No. 11/072,566	:	FOR
Filed: March 2, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10022/627	:	
Title: TOTAL RETURN TO	:	
SHAREHOLDERS TARGET SETTING	:	

This is a decision on the "REQEUST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed December 24, 2010. Applicants request that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from five hundred and forty (540) days to five hundred and eighty-two (582) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **five hundred and eighty-two (582)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A Notice of Allowance and Issue Fee Due was mailed on September 27, 2010, with an indication that the patent term adjustment to date was 540 days. Applicants have disputed one period of delay: the 42-day reduction associated with the filing of a supplemental response on May 20, 2010. 37 CFR § 1.704(c)(8) indicates that the submission of a supplemental reply, other than a supplemental reply expressly requested by the examiner,

after a reply has been filed, will result in a period of adjustment set forth in § 1.703, and the reduction will constitute the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

A final Office action was mailed on November 9, 2009, and a response was received on April 8, 2010, in the form of a Request for Continued Examination (RCE). A supplemental response was subsequently received on May 20, 2010, which resulted in a reduction of 42 days, pursuant to 37 CFR § 1.704(c)(8). Applicants dispute this reduction on the basis that it was expressly requested by the examiner.[1]

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.[2]

Applicants' argument has been considered and has been found to be persuasive. The record supports a conclusion that the response filed May 20, 2010 was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Thus, the reduction of 42 days is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is five hundred and eighty-two (582) days (773 days of Office delay minus 191 days of Applicant delay).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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[1] Petition, pages 2-3.
[2] Petition, page 2.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Sunday
Date: 1/30/2011

PALM INTRANET

Time: 11:52:58

PTA Calculations for Application: 11/072566			
Application Filing Date:	03/02/2005	PTO Delay (PTO):	773
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	233
Post-Issue Petitions:	0	Total PTA (days):	582
PTO Delay Adjustment:	42		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	01/24/2011	ADJUSTMENT OF PTA CALCULATION BY PTO	42		
85	09/27/2010	MAIL NOTICE OF ALLOWANCE	50		72
84	09/26/2010	ISSUE REVISION COMPLETED			
83	09/26/2010	DOCUMENT VERIFICATION			
82	09/26/2010	EXAMINER'S AMENDMENT COMMUNICATION			
81	09/26/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
80	09/26/2010	NOTICE OF ALLOWABILITY			
79	01/20/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	05/26/2010	DATE FORWARDED TO EXAMINER			
77	05/20/2010	SUPPLEMENTAL RESPONSE		42	72
76	05/03/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
75	04/29/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
74	04/09/2010	DATE FORWARDED TO EXAMINER			
73	04/08/2010	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
72	04/08/2010	REQUEST FOR CONTINUED EXAMINATION (RCE)		58	59
71	04/09/2010	DISPOSAL FOR A RCE / CPA / R129			
70	04/08/2010	REQUEST FOR EXTENSION OF TIME - GRANTED			
69	04/08/2010	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	04/08/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
67	04/01/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

66	01/20/2010	REFERENCE CAPTURE ON IDS			
65	01/20/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	02/16/2010	MAIL ADVISORY ACTION (PTOL - 303)			
63	02/07/2010	ADVISORY ACTION (PTOL-303)			
62	01/30/2010	DATE FORWARDED TO EXAMINER			
61	01/28/2010	AMENDMENT AFTER FINAL REJECTION			
60	01/20/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	11/09/2009	MAIL FINAL REJECTION (PTOL - 326)	8		55
58	11/09/2009	FINAL REJECTION			
56	08/28/2009	DATE FORWARDED TO EXAMINER			
55	07/01/2009	RESPONSE AFTER NON-FINAL ACTION			
54	04/20/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
53	04/15/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
52	04/01/2009	MAIL NON-FINAL REJECTION			
51	03/30/2009	NON-FINAL REJECTION			
50	01/24/2009	DATE FORWARDED TO EXAMINER			
49	01/14/2009	RESPONSE TO ELECTION / RESTRICTION FILED		104	44
48	12/22/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
47	02/11/2008	REFERENCE CAPTURE ON IDS			
46	10/02/2007	MISCELLANEOUS INCOMING LETTER			
45	10/20/2008	DATE FORWARDED TO EXAMINER			
44.1	10/02/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
44	10/02/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
43	10/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
42	09/16/2008	MAIL RESTRICTION REQUIREMENT			
41	09/15/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
40	08/14/2008	SUBSTITUTE SPECIFICATION FILED			
39	09/07/2008	DATE FORWARDED TO EXAMINER			
38	08/14/2008	RESPONSE AFTER NON-FINAL ACTION		29	32
37	08/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	09/02/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
35	08/19/2008	EXAMINER INTERVIEW SUMMARY RECORD			

		(PTOL - 413)			
34	04/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	02/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	04/16/2008	MAIL NON-FINAL REJECTION	715		-1
30	04/14/2008	NON-FINAL REJECTION			
29	04/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	04/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	11/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	05/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	02/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	04/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
17	02/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	05/25/2007	REFERENCE CAPTURE ON IDS			
15	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
12	11/06/2006	REFERENCE CAPTURE ON IDS			
11.7	11/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	11/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/04/2006	TRANSFER INQUIRY TO GAU			
9	09/29/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	06/10/2005	APPLICATION DISPATCHED FROM OIPE			
7	06/10/2005	APPLICATION IS NOW COMPLETE			
6	06/03/2005	ADDITIONAL APPLICATION FILING FEES			
5	06/03/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	03/30/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

3	03/23/2005	CLEARED BY OIPE CSR			
2	03/18/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/02/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110711

DATE : July 11, 2011

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7,739,638

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:

Request for Certidicate of Correction filed 4/21/2011 has been entered and approved.

/JACK CHIANG/
Supervisory Patent Examiner.Art Unit 2825

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

MAILED
OCT 26 2010
OFFICE OF PETITIONS

In re Patent No.: 7,191,742	:	
Issued: March 20, 2007	:	
Application No. 11/072,624	:	NOTICE
Filed: March 4, 2005	:	
Attorney Docket No.: 67,023-307PUS1	:	

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 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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

MAILED

MAR 23 2012

OFFICE OF PETITIONS

In re Application of

Willey, et al. :

Application No. 11/072,700

: DECISION ON PETITION

Filed: March 4, 2005

:

Attorney Docket No. **1-52541/D2004-04**

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 25, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on May 26 2010. A Notice of Abandonment was mailed September 22, 2010.

The amendment filed February 27, 2012, is noted.

The application is being forwarded to Technology Center 1600, GAU 1637 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 : **3-24-11**

TO SPE OF : ART UNIT **2463**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11072741** Patent No.: **7826435**

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: All changes are approved.

/Derrick Ferris/ **2463**